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THE

MODERN ORATOR.

THE

MOST CELEBRATED SPEECHES

OF

THE EARL OF CHATHAM,

THE RT. HON. RICHARD BRINSLEY SHERIDAN,

THE RIGHT HON. LORD ERSKINE,

AND

THE RIGHT HON. EDMUND BURKE.

LONDON:
AYLOTT AND JONES, 8, PATERNOSTER ROW.

1847.

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THE

MODERN ORATOR.

THE SPEECHES

OF

THE EARL OF CHATHAM.

LONDON:
AYLOTT & JONES, 8, PATERNOSTER ROW,
AND ALL BOOKSELLERS.

1845.

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INTRODUCTION.

It is by no means uncommon to find writers on literature assign to the oratorical productions of modern ages, a position very inferior to those of the ancient, and too many are apt to yield a ready assent to so degrading a classification, without having previously fairly investigated the question. The real advantage possessed by the ancient over modern orations is, that the former have been diligently studied, and are well known, while very few persons, comparatively, have even read the splendid and imposing speeches of the great orators of their own country. But if a candid and impartial comparison were made between the far-famed productions of the orators of Greece and Rome, which have been handed down as the models of a truly elegant and forcible style, and those of many of the great men who have been at once the pride and ornament of the British parliament and bar, no lover of his country need dread the result. To be able properly to canvass the merits of the ancient and modern schools (so to speak), regard must be had to the state of society at the different periods. Many of the justly-famed speeches of Cicero, it must be confessed by his most ardent admirers, if delivered to a modern audience, would be far from effective or persuasive, which is the real aim of all oratory; the ease and harmony of his well modulated sentences might gratify the ear for a time, but the pompous and egotistical style which he too frequently indulges in, would, in the present day, be rejected as little short of mere declamation. The more nervous and forcible

style of Demosthenes is far more adapted to an advanced state of society, and resembles more closely the modern style of public speaking, aiming, as it does, more to convince the mind than to please the ear. Constituted as modern assemblies usually are now, of persons of cultivated minds and refined tastes, it would be unreasonable to expect that our modern orators should adopt a style which has ceased to be effective, and rely more on ornament and a declamatory appeal to the passions, than strict sound sense and convincing argument; but they have, notwithstanding, triumphantly shown to the world that they have not allowed the poetic genius of their minds to be cramped by the closeness of their reasoning, for while they have far excelled the great public speakers of ancient days in sound logical argument, they have, at the same time, embodied it in beauty of language that has never been, and probably never will be, surpassed. Where can be found brighter examples of stern patriotic eloquence than in some of the orations of Lord Chatham? whose wonderful powers of elocution the celebrated Irish orator, Grattan, has thus beautifully recorded:—"His eloquence was an era in the senate, peculiar and spontaneous, familiarly expressing gigantic ideas and instinctive wisdom. Not like the torrent of Demosthenes or the splendid conflagration of Tully—it resembled sometimes the thunder and sometimes the music of the spheres. Like Murray, he did not conduct the understanding through the painful subtilty of argumentation, nor was he, like Townsend, for ever on the rack of invention, but rather lightened upon the subject, and reached the point by the flashings of his mind, which, like those of the eye, were felt, but could not be followed." But Lord Chatham stands neither alone nor foremost—he is only one of the bright phalanx of the orators of the United Kingdom, who have bequeathed to their admiring country lasting monuments of native talent. Pitt, Fox, Sheridan, Burke, Grattan, Erskine, and others, too numerous to mention, but whose names will be remembered as long as history survives, swell the illustrious train, and have left lasting proofs that the superiority of ancient over modern elocution, has now, at least, ceased.

That it may not be supposed that the Editors of this work have presumed to take up a position unwarranted by authority, they beg to refer to one instance of modern eloquence, out of many, which, according to the re-

corded opinions of men whose authority on such a subject all are bound to admit, was never equalled by any of the ancients—namely, the truly celebrated speech of Richard Brinsley Sheridan, in the year 1787, on the motion for the impeachment of Warren Hastings, on the third charge against him, and which is thus noticed in the history of the period:—"In this state of the proceeding, Mr Sheridan brought forward, on the 7th of February, the charge against the Begum princesses of Oude, and delivered that celebrated speech, whose effect upon its hearers has no parallel in the annals of ancient or modern eloquence. The subject was particularly favourable to a display of that kind of impassioned eloquence in which the orators of antiquity, when acting as public accusers, so much excelled; and it was agreed on all hands, that never in the British senate, nor probably anywhere else, was a speech of this class delivered comparable to that of Sheridan on this occasion. For five hours and a half he kept the attention of the House fascinated by his eloquence, and when he sat down, the whole assembly, consisting of the members of both Houses of Parliament, besides an audience of distinguished visitors, involuntarily joined in a tumult of applause. Mr Burke pronounced it to be the most astonishing effort of argument, eloquence, and wit united, of which there is any record or tradition. Mr Fox declared that all he had ever heard, all that he had ever read, when compared with it, dwindled into nothing, and vanished like vapour before the sun; and even Mr Pitt acknowledged, that it surpassed all the eloquence of ancient or modern times, and possessed everything that genius or art could furnish to agitate and control the human mind."

It cannot but be regretted that the study of the speeches of our great modern orators, which rank so high in a literary point of view, should have been hitherto so much neglected. The only reason that can be given for their being so seldom found in libraries is the exceedingly high price at which most of them are published, which places them beyond the reach of many who would otherwise possess them. To supply this defect, "The Modern Orator" is now issued at a price which will place it at the command of all the reading public, and will contain the finest speeches of the most distinguished orators of the United Kingdom, carefully selected; including those of Lord Chatham, Burke, Pitt, Fox, Sheridan, Erskine, Grattan, Curran, Canning,

Wyndham, Huskisson, Brougham, Sheil, &c., &c.; with short explanatory notes. Of the intrinsic value of such a collection it is needless to speak; but it is presumed that it will be also found an useful addition to the library as a book of reference. The Editors sincerely hope it may meet the approval of the Public, to whose liberal support they look with confidence; but should they be doomed to be disappointed in their expectations, they will, at least, feel a consolation and an honest pride in having endeavoured, by their humble means, to elevate the literature of their country.

London, January, 1845.

THE MODERN ORATOR.

THE EARL OF CHATHAM.

William Pitt was born in St James's, Westminster, the 15th November, 1708; created Viscount Pynsent and Earl of Chatham, in July, 1766; died the 11th May, 1778; and was interred in Westminster Abbey, where a public monument commemorates his fame.

The speeches of Mr Pitt, delivered prior to the year 1760, in consequence of the then imperfect mode of reporting, do not support the high fame to which that great statesman is justly entitled; they, however, fully display the exceeding candour, probity, and patriotism which always characterised him.

The following was Mr Pitt's first speech in parliament, and was delivered on the 29th April, 1736, in support of the motion of Mr Pulteney for an address of congratulation to his Majesty King George II., on the nuptials of his Royal Highness Frederick Prince of Wales, with the Princess of Saxe Gotha :—

"Sir,

"I am unable to offer anything that has not been said by my honourable friend who made the motion, in a manner much more suitable to the dignity and importance of the subject. But I am really affected with the prospect of the blessings to be derived to my country from this so desirable and long-desired measure, the marriage of his Royal Highness the Prince of Wales; I cannot forbear troubling you with a few words, to express my joy, and to mingle my humble offering, inconsiderable as it is, with this oblation of thanks and congratulation to his Majesty.

"How great soever the joy of the public may be, and very great it certainly is, in receiving this benefit from his Majesty, it must be inferior to

that high satisfaction which he himself enjoys in bestowing it; and if I may be allowed to suppose, that to a royal mind anything can transcend the pleasure of gratifying the impatient wishes of a loyal people, it can only be the paternal delight of tenderly indulging the most dutiful application, and most humble request, of a submissive obedient son. I mention, Sir, his Royal Highness's having asked a marriage, because something is, in justice, due to him, for having asked what we are so strongly bound, by all the ties of duty and gratitude, to return his Majesty our most humble acknowledgments for having granted.

"The marriage of a Prince of Wales, Sir, has at all times been a matter of the highest importance to the public welfare, to present and to future generations; but at no time has it been a more important, a more dear consideration, than at this day: if a character, at once amiable and respectable, can embellish, and even dignify, the elevated rank of a Prince of Wales. Were it not a sort of presumption to follow so great a person through his hours of retirement, to view him in the milder light of domestic life, we should find him engaged in the noble exercise of humanity, benevolence, and of every social virtue. But, Sir, how pleasing, how captivating soever such a scene may be, yet, as it is a private one, I fear I should offend the delicacy of that virtue I so ardently desire to do justice to, should I offer it to the consideration of this House. But, Sir, filial duty to his Royal parents, a generous love of liberty, and a just reverence for the British constitution; these are public virtues, and cannot escape the applause and benedictions of the public. They are virtues, Sir, which render his Royal Highness not only a noble ornament, but a firm support, if any could possibly be necessary, of that throne so greatly filled by his Royal father.

"I have been led to say thus much of his Royal Highness's character, because it is the consideration of that character which, above all things, enforces the justice and goodness of his Majesty in the measure now before us; a measure which the nation thought could never come too soon, because it brings with it the promise of an additional strength to the Protestant succession in his Majesty's illustrious and royal house. The spirit of liberty dictated that succession. The same spirit now rejoices, in the prospect of its being perpetuated to latest posterity. It rejoices in the wise and happy choice which his Majesty has been pleased to make of a princess, so amiably distinguished in herself, so illustrious in the merit of her family, the glory of whose great ancestor it is, to have sacrificed himself to the noblest cause for which a prince can draw his sword, the cause of liberty and the protestant religion. Such, Sir, is the marriage, for which our most humble acknowledgments are due to his Majesty; and may it afford the comfort of seeing the Royal family (numerous as I thank God it is) still growing and rising up in a third generation! a family, Sir, which I most sincerely wish may be as immortal as those liberties and that constitution it came to maintain; and, therefore, I am heartily for the motion."

The motion was carried unanimously.

Speech in favour of a reduction of the Land Forces, in reply to Sir Thomas Lumley Sanderson, afterwards Earl of Scarborough, delivered February 4th, 1738:—

"Sir,

"As to what the honourable gentleman has said, respecting those whom he calls placemen, I agree with him, that, if they were to be directed in their opinions by the places they held, they might unite, for the support of each other, against the common good of the nation; but I hope none of them are under any such directions. I am sure the honourable gentleman himself is not, and, therefore, I am convinced he is not serious, when he talks of being surprised at any placeman's declaring for a reduction of our army, for, of all men, those who enjoy any places of profit under our government ought to be the most cautious of loading the public with any unnecessary tax or expense; because, as the places they possess generally bring them in more than their share of our taxes can amount to, it may be properly said that, by consenting to any article of public expense, they lay a load upon others which they themselves bear no share of.

"I must look upon myself as a placeman, as well as the honourable gentleman who spoke last.* I am in the service of one of the branches of the royal family,† and I think it my honour to be so; but I should not think it if I were not as free to give my opinion upon any question that happens in this House as I was before I had any such place; and I believe, from the behaviour of gentlemen upon this very occasion, it will appear that all those who are in the service with me are in the same state of freedom, because I believe they will, upon the question now before us, appear to be of different opinions. But there is another set of placemen, whose behaviour surprises me not a little, because, upon every question respecting public affairs, they are always unanimous; and I confess it is to me a little astonishing that two or three hundred gentlemen should, by an unaccountable sort of unanimity, always agree in opinion upon the many different questions which occur annually. I am convinced this surprising unanimity does not proceed from any effect of the places they hold under the Crown; for, if it did, a man's being possessed of any place under the Crown would, in such a case, I am sure, be an infallible reason for the people not to trust him with the preservation of their liberties, or the disposal of their properties in Parliament.

"Then, as to the Tories,‡ and suspected Jacobites, I am surprised to hear any comparison made between them and the fat man in the crowd. There are so few of either in the kingdom, that I am sure they can give no man an occasion for being afraid of them, and, therefore, there is not the least shadow of reason for saying they are the occasion of our being obliged to keep such a numerous standing army.

* Sir Thomas L. Sanderson was treasurer to the Prince of Wales.

† Mr Pitt was groom of the bedchamber to the Prince of Wales.

‡ It will be remembered that, after the flight of James II., the tories were in favour of the succession of his son, and the appointment of a regent during his minority.

" Our large army may properly be compared to the fat man in the crowd; for the keeping up of such an army is the first cause of our discontents, and those discontents now, we find, are made the chief pretence for keeping the army. Remove, therefore, the army, or but a considerable part of it, and the discontents complained of will cease.

" I come now to the only argument the honourable gentleman made use of, which can admit a serious consideration; and if our army were entirely, or but generally, composed of veterans, inured to the fatigues and the dangers of war, and such as had often ventured their lives against the enemies of their country, I confess the argument would have a great weight. But, considering the circumstances of our present army, I can hardly think my honourable friend was serious when he made use of such argument. As for the officers of the army, they are quite out of the question; for, in case of a reduction, there is a handsome provision for every one of them. No man can doubt, nor would any man oppose, their being put upon half-pay; and I must observe, that our half-pay is better, or as good, as full pay, I believe, in any other country in Europe; for, in the method our army is now kept up, I could show, by calculation, that it costs the nation more than would maintain three times the number of men either in France or Germany. And, as for the soldiers, I believe it may be said of at least three-fourths of them, that they never went under any fatigue except that of a review, nor were ever exposed to any danger, except in apprehending smugglers, or dispersing mobs; therefore, I must think, they have no claim for any greater reward than the pay they have already received, nor should I think we were guilty of the least ingratitude if they were all turned adrift to-morrow morning.

" But suppose, Sir, the soldiers of our army were all such as had served a campaign or two against a public enemy; is it from thence to be inferred that they must for ever after live idly, and be maintained at the expense of their country, and that in such a manner as to be dangerous to the liberties of their country? At this rate, if a man has but once ventured his life in the service of his country, he must for ever be not only a burthen, but a terror, to his country. This would be a sort of reward which I am sure no brave soldier would accept of, nor any honest one desire. That we should show a proper gratitude to those who have ventured their lives in the service of their country, is what I shall readily acknowledge; but this gratitude ought to be shown in such a way as not to be dangerous to our liberties, nor too burthensome to the people; and, therefore, when a war is at an end, if a soldier can provide for himself, either by his labour, or by his own private fortune, he ought not to expect, and, if he is not of a mercenary disposition, he will scorn to receive, any other rewards than those which consist in the peculiar honour and privileges which may and ought to be conferred upon him.

" That we ought to show a proper gratitude to every man who has ventured his life in the cause of his country, is what, I am sure, no gentleman will deny. Yet, as the laws now stand, an old officer, who has often ventured his life, and often spilt his blood, in the service of his country, may be dis-

missed, and reduced, perhaps, to a starving condition, at the arbitrary will and pleasure, perhaps at the whim, of a minister ;* so that by the present establishment of the army, the reward of a soldier seems not to depend upon the services done to his country, but upon the services he does to those who happen to be ministers at the time. Must not this be allowed to be a defect in the present establishment? And yet when a law was proposed for supplying this defect, we may remember what reception it met with, even from those who now insist so highly upon the gratitude we ought to show the gentlemen of the army."

Ever since the treaty of Seville, in 1729, the British merchants had been much harassed and annoyed by the Spaniards in America, who, under the pretence of searching for contraband goods, boarded British ships with the greatest violence, and in some cases actually confiscated them. Sir Robert Walpole, then prime minister, took no measures to assert the honour of the country, feeling that a war would occasion him the loss of office, by the expenditure of treasure which he then employed to maintain himself in power.

In the speech from the throne, on the 1st February, 1738, the King informed the Parliament that a convention had been concluded between him and the King of Spain; and that reparation was to be made by the latter for the losses sustained by British subjects; and that plenipotentiaries had been appointed for settling all matters in dispute. This was the famous convention concluded at Pardo on the 14th January, 1738—on the 8th March, 1738, the day appointed for taking the convention into consideration in the House of Commons, 400 members took their seats by eight o'clock in the morning, when Mr Horace Walpole, in favour of ministers, moved that an address of approbation be presented to his Majesty, which was seconded by Mr Campbell, upon which Mr Pitt, "with an energy of argument and diction (as the historian Smollett writes) peculiar to himself, declaimed against the convention," in a speech of which the following is the only report that has been preserved:—

"Sir,

"I can by no means think, that the complicated question now before us is the proper, the direct manner of taking the sense of this committee. We have here the soft name of an humble address to the Crown proposed, and for no other end but to lead gentlemen into an approbation of the convention. But is this that full, deliberate examination which we were with defiance called upon to give? Is this cursory blended disquisition of matters, of such variety and extent, all we owe to ourselves and our country? When trade is at stake, it is your last entrenchment; you must defend it, or perish; and whatever is to decide, that deserves the most distinct consideration, and the most direct, undisguised sense of Parliament. But how are we now proceeding? Upon an artificial, ministerial question—here is all the con-

* Sir Robert Walpole, irritated by the opposition of Mr Pitt, had deprived him of his cornetcy, from caprice, in 1736.

fidence, here is the conscious sense of the greatest service that ever was done to this country; to be complicating questions, to be lumping sanction and approbation like a commissary's account; to be covering and taking sanctuary in the royal name, instead of meeting openly, and standing fairly, the direct judgment and sentence of parliament upon the several articles of this convention.

"You have been moved to vote an humble address of thanks to his Majesty, for a measure which (I will appeal to gentlemen's conversation in the world) is odious throughout the kingdom. Such thanks are only due to the fatal influence that framed it, as are due for that low, unallied condition abroad, which is now made a plea for this convention. To what are gentlemen reduced in support of it? First, try a little to defend it upon its own merits; if that is not tenable, throw out general terrors—the house of Bourbon is united—who knows the consequence of a war? Sir, Spain knows the consequence of a war in America; whoever gains, it must prove fatal to her; she knows it, and must therefore avoid it; but she knows England does not dare to make it; and what is a delay, which is all this magnified convention is sometimes called, to produce? Can it produce such conjunctures as those you lost, while you were giving kingdoms to Spain, and all to bring her back again to that great branch of the house of Bourbon which is now thrown out to you with so much terror? If this union be formidable, are we to delay only till it becomes more formidable, by being carried further into execution, and more strongly cemented? But be it what it will, is this any longer a nation, or what is an English parliament, if, with more ships in your harbours than in all the navies of Europe, with above two millions of people in your American colonies, you will bear to hear of the expediency of receiving from Spain an insecure, unsatisfactory, dishonourable convention? Sir, I call it no more than it has been proved in this debate; it carries fallacy, or downright subjection, in almost every line. It has been laid open and exposed in so many strong and glaring lights, that I can pretend to add nothing to the conviction and indignation it has raised.

"Sir, as to the great national objection—the searching your ships—that favourite word, as it was called, is not omitted, indeed, in the preamble to the convention, but it stands there as the reproach of the whole—as the strongest evidence of the fatal submission that follows. On the part of Spain, an usurpation, an inhuman tyranny, claimed and exercised over the American seas; on the part of England, an undoubted right, by treaties, and from God and nature, declared and asserted in the resolutions of parliament, are referred to the discussion of plenipotentiaries, upon one and the same equal foot. Sir, I say this undoubted right is to be discussed and regulated. And if to regulate be to prescribe rules (as in all construction it is), this right is, by the express words of this convention, to be given up and sacrificed; for it must cease to be anything from the moment it is submitted to limits.

"The court of Spain has plainly told you (as appears by papers upon the table) you shall steer a due course; you shall navigate by a line to and from

your plantations in America; if you draw near to her coasts (though from the circumstances of that navigation you are under an unavoidable necessity of doing it) you shall be seized and confiscated. If, then, upon these terms only she has consented to refer, what becomes at once of all the security we are flattered with in consequence of this reference? Plenipotentiaries are to regulate finally the respective pretensions of the two crowns with regard to trade and navigation in America; but does a man in Spain reason that these pretensions must be regulated to the satisfaction and honour of England? No, Sir, they conclude, and with reason, from the high spirit of their administration, from the superiority with which they have so long treated you, that this reference must end, as it has begun, to their honour and advantage.

"But gentlemen say, the treaties subsisting are to be the measure of this regulation. Sir, as to treaties, I will take part of the words of Sir William Temple, quoted by the honourable gentleman near me; it is vain to negotiate and make treaties, if there is not dignity and vigour to enforce the observance of them; for under the misconstruction and misrepresentation of these very treaties subsisting, this intolerable grievance has arisen; it has been growing upon you, treaty after treaty, through twenty years of negotiation, and even under the discussion of commissaries, to whom it was referred. You have heard from Captain Vaughan, at your bar,* at what time these injuries and indignities were continued. As a kind of explanatory comment upon the convention Spain has thought fit to grant you, as another insolent protest, under the validity and force of which she has suffered this convention to be proceeded upon, We'll treat with you, but we'll search and take your ships; we'll sign a convention, but we'll keep your subjects prisoners, prisoners in Old Spain; the West Indies are remote; Europe shall be witness how we use you.

"As to the inference of an admission of our right not to be searched, drawn from a reparation made for ships unduly seized and confiscated, I think that argument is very inconclusive. The right claimed by Spain to search our ships is one thing, and the excesses admitted to have been committed in consequence of this pretended right, is another; but surely, sir, reasoning from inferences and implication only, is below the dignity of your proceedings, upon a right of this vast importance. What this reparation is, what sort of composition for your losses, forced upon you by Spain, in an instance that has come to light, where your own commissaries could not in conscience decide against your claim, has fully appeared upon examination; and, as for the payment of the sum stipulated (all but seven and twenty thousand pounds, and that, too, subject to a drawback), it is evidently a fallacious nominal payment only. I will not attempt to enter into the detail of a dark, confused, and scarcely intelligible account;† I will only beg leave to conclude with one

* The House of Commons, in a grand committee, in 1737, had heard counsel for the merchants, and received evidence at the bar, on the subject of the Spanish depredations.

† Mr Smollett relates, that Mr Gage, one of the most keen-spirited and sarcastic members in the House, stated the account thus:—"The losses sustained by Spanish depredations amounted to £340,000; the Commissary, by a stroke of his pen, reduced

word upon it, in the light of a submission, as well as of an adequate reparation. Spain stipulates to pay to the crown of England ninety-five thousand pounds; by a preliminary protest of the King of Spain, the South Sea Company is at once to pay sixty-eight thousand of it: if they refuse, Spain, I admit, is still to pay the ninety-five thousand pounds — but how does it stand then? The Assiento contract is to be suspended; you are to purchase this sum at the price of an exclusive trade, pursuant to a national treaty, and an immense debt of God knows how many hundred thousand pounds due from Spain to the South Sea Company. Here, Sir, is the submission of Spain, by the payment of a stipulated sum; a tax laid upon subjects of England, under the severest penalties, with the reciprocal accord of an English minister, as a preliminary that the convention may be signed; a condition imposed by Spain in the most absolute, imperious manner, and received by the ministers of England in the most tame and abject. Can any verbal distinctions, any evasions whatever, possibly explain away this public infamy? To whom would we disguise it? To ourselves and to the nation. I wish we could hide it from the eyes of every court in Europe. They see Spain has talked to you like your master; they see this arbitrary fundamental condition, and it must stand with distinction, with a pre-eminence of shame, as a part even of this convention.

"This convention, Sir, I think from my soul, is nothing but a stipulation for national ignominy; an illusory expedient, to baffle the resentment of the nation; a truce without a suspension of hostilities on the part of Spain; on the part of England a suspension, as to Georgia, of the first law of nature, self-preservation and self-defence—a surrender of the rights and trade of England to the mercy of plenipotentiaries, and in this infinitely highest and sacred point, future security, not only inadequate, but directly repugnant to the resolutions of Parliament, and the gracious promise from the throne. The complaints of your despairing merchants, the voice of England has condemned it. Be the guilt of it upon the head of the adviser. God forbid that this committee should share the guilt by approving it!"

The address was, however, carried by a small majority.

THE following speech was made on the 10th of March, 1740, in opposition

this demand to £200,000; then £45,000 were struck off for prompt payment; he next allotted £60,000 as the remaining part of a debt pretended to be due to Spain for the destruction of her fleet by Sir George Byng, though it appeared, by the instructions on the table, that Spain had been already amply satisfied on that head; these reductions reduced the balance to £95,000, but the King of Spain insisted on the South Sea Company paying immediately the sum of £68,000, as a debt due to him on one head of accounts, though in other articles his Catholic Majesty was indebted to the company a million over and above the demand; the remainder to be paid by Spain did not exceed £27,000, from which she insisted upon deducting whatever might have already been given in satisfaction for any of the British ships that had been taken; and on being allowed the value of the St Theresa, a Spanish ship, which had been seized in the port of Dublin."

to a bill brought in by ministers, intituled, "A Bill for the Encouragement and Increase of Seamen, and for the better and speedier manning of his Majesty's Fleet." The object of the bill (similar to one proposed and rejected in the former session of parliament) was to give power to justices of the peace, to grant warrants to constables and headboroughs, to search, by night and day, for all seafaring men in their districts; and to break open doors, in case of resistance, and seize men for service in the navy.

"SIR,

"It is common for those to have the greatest regard to their own interest, who discover the least for that of others. I do not, therefore, despair of recalling the advocates of this bill from the prosecution of their favourite measures by arguments of greater efficacy than those which are pretended to be founded on reason and justice.

"Nothing is more evident, than that some degree of reputation is absolutely necessary to men who have any concern in the administration of a government like ours; they must either secure the fidelity of their adherents, by the assistance of wisdom or of virtue; their enemies must either be awed by their honesty, or terrified by their cunning. Mere artless bribery will never gain a sufficient majority to set them entirely free from apprehensions of censure. To different tempers, different motives must be applied. Some, who place their felicity in being accounted wise, are in very little care to preserve the character of honesty; others may be persuaded to join in measures which they easily discover to be weak and ill-concerted, because they are convinced that the authors of them are not corrupt, but mistaken, and are unwilling that any man should be punished for natural defects or casual ignorance.

"I cannot say which of these motives influence the advocates for the bill before us; a bill in which such cruelties are proposed, as are yet unknown among the most savage nations; such as slavery has not yet borne, nor tyranny invented; such as cannot be heard without resentment, nor thought of without horror.

"It is, perhaps, not unfortunate that one more expedient has been added, rather ridiculous than shocking, and that these tyrants of administration, who amuse themselves with oppressing their fellow-subjects, who add, without reluctance, one hardship to another, invade the liberty of those whom they have already overborne with taxes—first plunder, and then imprison; who take all opportunities of heightening the public distresses, and make the miseries of war the instruments of new oppressions; are too ignorant to be formidable, and owe their power, not to their abilities, but to casual prosperity, or to the influence of money.

"The other clauses of this bill, complicated at once with cruelty and folly, have been treated with becoming indignation; but this may be considered with less ardour and resentment, and fewer emotions of zeal; because, though not perhaps equally iniquitous, it will do no harm; for a law that can never be executed can never be felt.

" That it will consume the manufacture of paper, and swell the book of statutes, is all the good or hurt that can be hoped or feared from a law like this; a law which fixes what is in its own nature mutable, which prescribes rules to the seasons and limits to the wind.

" I am too well acquainted, Sir, with the disposition of its two chief supporters, to mention the contempt with which this law will be treated by posterity; for they have already shown abundantly their disregard of succeeding generations; but I will remind them, that they are now venturing their whole interest at once, and hope they will recollect, before it is too late, that those who believe them to intend the happiness of their country, will never be confirmed in their opinion by open cruelty and notorious oppression; and that those who have only their own interest in view, will be afraid of adhering to those leaders, however old and practised in expedients, however strengthened by corruption or elated with power, who have no reason to hope for success from either their virtue or abilities."

[On Mr Horace Walpole, in reply to this speech, having sarcastically observed on the youth and inexperience of Mr Pitt, and accused him of "furious declamation," " lofty periods," " theatrical emotions," &c., Mr Pitt again addressed the House, as follows :—]

" Sir,

" The atrocious crime of being a young man, which the honourable gentleman has with such spirit and decency charged upon me, I shall neither attempt to palliate nor deny, but content myself with wishing that I may be one of those whose follies may cease with their youth, and not of that number who are ignorant in spite of experience.

" Whether youth can be imputed to any man as a reproach, I will not assume the province of determining. But surely age may become justly contemptible, if the opportunities which it brings have passed away without improvement, and vice appears to prevail when the passions have subsided. The wretch that, after having seen the consequences of a thousand errors, continues still to blunder, and whose age has only added obstinacy to stupidity, is surely the object of either abhorrence or contempt, and deserves not that his grey head should secure him from insults.

" Much more is he to be abhorred, who, as he has advanced in age, has receded from virtue, and becomes more wicked with less temptation; who prostitutes himself for money which he cannot enjoy, and spends the remains of his life in the ruin of his country.

" But youth is not my only crime; I have been accused of acting a theatrical part. A theatrical part may either imply some peculiarities of gesture, or a dissimulation of my real sentiments, and an adoption of the opinions and language of another man.

" In the first sense, the charge is too trifling to be confuted, and deserves only to be mentioned, that it may be despised. I am at liberty, like every other man, to use my own language; and though I may, perhaps, have

some ambition, yet, to please this gentleman, I shall not lay myself under any restraint, nor very solicitously copy his diction, or his mien, however matured by age, or modelled by experience. If any man shall, by charging me with theatrical behaviour, imply that I utter any sentiments but my own, I shall treat him as a calumniator and a villain; nor shall any protection shelter him from the treatment which he deserves. I shall, on such an occasion, without scruple trample upon all those forms with which wealth and dignity entrench themselves, nor shall anything but age restrain my resentment; age, which always brings one privilege, that of being insolent and supercilious without punishment.

"But with regard to those whom I have offended, I am of opinion, that if I had acted a borrowed part, I should have avoided their censure; the heat that offended them is the ardour of conviction, and that zeal for the service of my country which neither hope nor fear shall influence me to suppress. I will not sit unconcerned while my liberty is invaded, nor look in silence upon public robbery. I will exert my endeavours, at whatever hazard, to repel the aggressor, and drag the thief to justice, whoever may protect them in their villany, and whoever may partake of their plunder. And if the honourable gentleman"——

[A member here interposed by calling the honourable gentleman to order; but proceeded in so harsh a tone, and so far outstepped the bounds of moderation, as to induce Mr Pitt to express his opinion of such conduct in the following manner:—]

"If this be to preserve order, there is no danger of indecency from the most licentious tongue; for what calumny can be more atrocious, or what reproach more severe, than that of speaking without any regard to truth? Order may sometimes be broken by passion or inadvertency, but will hardly be re-established by a monitor like this, who cannot govern his own passion whilst he is restraining the impetuosity of others.

"Happy would it be for mankind, if every one knew his own province; we should not then see the same man at once a criminal and a judge; nor would this gentleman assume the right of dictating to others what he has not learned himself.

"That I may return, in some degree, the favour which he intends me, I will advise him never hereafter to exert himself on the subject of order; but whenever he finds himself inclined to speak on such occasions, to remember how he has now succeeded, and condemn in silence what his censures will never perform."

The bill was passed in a modified form.

In the year 1740, Sir Robert Walpole having become exceedingly unpopular throughout the country, the opposition party endeavoured to remove him from office; and accordingly (due notice having been previously given

to the minister), Mr Sandys (afterwards Lord Sandys), on the 13th February, 1741, after setting forth the misconduct of ministers, concluded his speech by moving, "That an address be presented to the King, to remove Sir Robert Walpole from his presence and councils for ever."

In support of this motion Mr Pitt made the following speech :—

"Sir,

"As it has been observed, that those who have formerly approved the measures of the gentlemen into whose conduct we are now inquiring, cannot be expected to disavow their former opinions unless new arguments are produced of greater force than those which have formerly been offered; so the same steadiness must be expected in those who have opposed them, unless they can now hear them better defended.

"It is an established maxim, Sir, that as time is the test of opinions, falsehood grows every day weaker, and truth gains upon mankind. This is most eminently just in political assertions, which often respect future events, and the remote consequences of transactions; and therefore never fails to be, by time, incontestibly verified, or undeniably combated. On many occasions it is impossible to determine the expediency of measures otherwise than by conjecture; because almost every step that can be taken, may have a tendency to a good as well as to a bad end; and as he who proposes, and he who promotes, may conceal their intentions till they are ripened into execution, time only can discover the motives of their demands and the principles of their conduct.

"For this reason it may easily be expected that bad measures will be condemned by men of integrity, when their consequences are fully discovered; though, when they were proposed, they might, by plausible declarations and specious appearances, obtain their approbation and applause. Those, whose purity of intention and simplicity of morals exposed them to credulity and implicit confidence, must resent the arts by which they were deluded into a concurrence with projects detrimental to their country, but of which the consequences were artfully concealed from them, or the real intention steadily denied.

"With regard to those gentlemen whose neglect of political studies has not qualified them to judge of the questions when they were first debated; and who, giving their suffrages, were not so much directed by their own conviction as by the authority of men whose experience and knowledge they knew to be great, and whose integrity they had hitherto found no reason to distrust; it may be naturally expected that, when they see those measures which were recommended, as necessary to peace and happiness, productive only of confusion, oppression, and distress, they should acknowledge their error, and forsake their guides, whom they must discover to have been either ignorant or treacherous; and, by an open recantation of their former decisions, endeavour to repair the calamities which they have contributed to bring on their country.

"The extent and complication of political questions is such, that no man can

justly be ashamed of having been sometimes mistaken in his determinations; and the propensity of the human mind to confidence and friendship is so great, that every man, however cautious, however sagacious, or however experienced, is exposed sometimes to the artifices of interest and the delusions of hypocrisy; but it is the duty, and ought to be the honour, of every man to own his mistake whenever he discovers it, and to warn others against those frauds which have been too successfully practised upon himself.

"I am, therefore, inclined to hope, that every man will not be equally predetermined in the present debate, and that, as I shall be ready to declare my approbation of integrity and wisdom, though they should be found where I have long suspected ignorance and corruption; as others will, with equal justice, censure wickedness and error, though they should have been detected in that person whom they have been long taught to reverence as the oracle of knowledge and the pattern of virtue.

"In political debates, time always produces new lights; time can, in these inquiries, never be neutral, but must always acquit or condemn. Time, indeed, may not always produce new arguments against bad conduct, because all its consequences might be originally foreseen and exposed; but it must always confirm them, and ripen conjectures into certainty. Though it should, therefore, be truly asserted, that nothing is urged in this debate which was not before mentioned and rejected, it will not prove that because the arguments are the same, they ought to produce the same effect; because what was then only foretold, has now been seen and felt, and what was then but believed is now known.

"But if time has produced no vindication of those measures which were suspected of imprudence or of treachery, it must be at length acknowledged that those suspicions were just, and that what ought then to have been rejected, ought now to be punished.

"This is, for the most part, the state of the question. Those measures which were once defended by sophistical reasoning, or palliated by warm declamations of sincerity and disinterested zeal for the public happiness, are found to be such as they were represented by those who opposed them. It is now discovered that the treaty of Hanover was calculated only for the advancement of the House of Bourbon;* that our armies are kept up only to multiply dependence, and to awe the nation from the exertion of its rights;

* In consequence of the treaty of Vienna in 1725, between Austria and Spain, George I., becoming alarmed for Hanover, entered into a defensive treaty between France and Prussia, to last for fifteen years. This was the treaty of Hanover in 1725. To reconcile the English nation to this treaty, the real object of which was the protection of Hanover, it was strongly impressed on the country by ministers (at the head of whom was Sir Robert Walpole), "That the Emperor and the King of Spain, exclusive of the public treaties concluded at Vienna, had entered into private engagements, importing that the Imperialists should join the Spaniards in recovering Gibraltar and Port Mahon by force of arms, in case the King of England should refuse to restore them amicably, according to a solemn promise he had made, that a double marriage should take place between the two infants of Spain, and the two archduchesses of Austria; and that means should be taken to place the Pretender on the throne of England."—*Smollett.*

that Spain has been courted only to the ruin of our trade; and that the convention * was little more than an artifice to amuse the people with an idle appearance of a reconciliation, which our enemies never intended.

"Of the stipulation which produced the memorable treaty of Hanover, the improbability was often urged, but the absolute falsehood could be proved only by the declaration of one of the parties. This declaration was at length produced by time, which was never favourable to the measures of our minister. For the Emperor of Germany asserted, with the utmost solemnity, that no such article was ever proposed; and that his engagements with Spain had no tendency to produce any change in the government of this kingdom.

"Thus it is evident, Sir, that all the terrors which the apprehension of this alliance produced, were merely the operation of fraud upon cowardice; and that they were only raised by the artful French, to disunite us from the only power with which it is our interest to cultivate an inseparable friendship. This disunion may therefore be justly charged upon the minister, who has weakened the interest of this country, and endangered the liberties of Europe.

"If it be asked, Sir, how he could have discovered the falsehood of the report, before it was confuted by the late Emperor, it may easily be answered, that he might have discovered it by the same tokens which betrayed it to his opponents, the impossibility of putting it into execution. For it must be confessed, that his French informers, well acquainted with his disposition to panic fears, had used no caution in the construction of their imposture, nor seem to have had any other view, than to add one error to another, to sink his reason with alarms, and to overbear him with astonishment.

"When they found he began to be disordered at the danger of our trade from enemies without naval forces, they easily discovered that, to make him the slave of France, nothing more was necessary than to add, that these bloody confederates had projected an invasion; that they intended to add slavery to poverty, and to place the Pretender upon the throne.

"To be alarmed into vigilance had not been unworthy of the firmest and most sagacious minister; but to be frightened by such reports into measures which even an invasion could scarcely have justified, was, at least, a proof of a capacity not formed by nature for the administration of government.

"If it be required, what advantage was granted by this treaty to the French, and to what inconveniences it has subjected this nation, an answer may very justly be refused, till the minister or his apologists shall explain his conduct in the last war with Spain; and inform us why the plate fleet was spared, our ships sacrificed to the worms, and our admiral and his sailors poisoned in an unhealthy climate; † why the Spaniards, in full security, laughed at our armaments, and triumphed in our calamities.

* See Speech page 5.

† Mr Pitt here alludes to Rear-admiral Hosier's expedition to the Spanish West Indies, in 1726, to block up the galleons carrying treasure, but which escaped him, by notice sent to them of his coming.

"The lives of Hosier * and his forces are now justly to be demanded from this man; he is now to be charged with the murder of those unhappy men whom he exposed to misery and contagion, to pacify, on one hand, the Britons, who called out for war, and to gratify, on the other, the French, who insisted that the Spanish treasures should not be seized.

"The minister who neglects any just opportunity of promoting the power or increasing the wealth of his country, is to be considered as an enemy to his fellow-subjects; but what censure is to be passed upon him who betrays that army to a defeat, by which victory might have been obtained—impoverishes the nation whose affairs he is entrusted to transact, by those expeditions which might enrich it; who levies armies only to be exposed to pestilence, and compels them to perish in sight of their enemies without molesting them? It cannot, surely, be denied, that such conduct may justly produce a censure more severe than that which is intended by this motion; and that he who has doomed thousands to the grave, who has co-operated with foreign powers against his country, who has protected its enemies, and dishonoured its arms, should be deprived, not only of his honours, but his life; that he should, at least, be stripped of those riches which he has amassed during a long series of successful wickedness; and not barely be hindered from making new acquisitions, and increasing his wealth by multiplying his crimes.

"But no such penalties, Sir, are now required; those who have long stood up in opposition to him, give a proof, by the motion, that they were not incited by personal malice; since they are not provoked to propose any treasonable censure, nor have recommended what might be authorised by his own practice, an act of attainder, or a bill of pains and penalties. They desire nothing further than that the security of the nation may be restored, and the discontents of the people pacified, by his removal from that trust which he has so long abused.

"The discontent of the people is, in itself, a reason for agreeing to this motion, which no rhetorical vindicator of his conduct will be able to counterbalance; for since it is necessary to the prosperity of the government, that the people should believe their interest favoured and their liberties protected; since to imagine themselves neglected, and to be neglected in reality, must produce in them the same suspicions and the same distrust, it is the duty of every faithful subject, whom his station qualifies, to offer advice to his Sovereign—to persuade him, for the preservation of his own honour, and the affection of his subjects, to remove from his councils that man whom they have long considered as the author of pernicious measures, and a favourer of arbitrary power."

The motion was lost by a large majority.

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* "This brave man (Hosier) being restricted by his orders from obeying the dictates of his courage, seeing his best officers and men daily swept off by an outrageous distemper, and his ships exposed to inevitable destruction, is said to have died of a broken heart."—*Smollett.*

In February, 1741, Sir Robert Walpole resigned office, and was created Earl of Orford. On the 9th March, 1742, Lord Limerick moved for the appointment of a committee to inquire into the conduct of the late Government for the last twenty years, which was supported by Mr Pitt, and was rejected by a majority of two only, in a house consisting of 486 members. In consequence of this small majority, Lord Limerick, on the 23rd March, 1742, moved for a committee of inquiry into the last ten years of the late administration; when Mr Pitt made the following speech in support of the motion:—

"Sir,

"As the honourable gentleman who spoke last, against the motion, has not been long in the House,* one ought in charity to believe there is some sincerity in the professions he makes of his being ready to agree to a parliamentary inquiry, when he sees cause, and a convenient time for it; but if he knew how often those professions have been made by those who, on all occasions, have opposed every kind of inquiry, he would save himself the trouble of making any such, because they are believed to be sincere by very few, within doors or without. He may, it is true, have no occasion, upon his own account, to be afraid of an inquiry of any sort; but when a gentleman has contracted a friendship, or any of his near relations have contracted a friendship, for one who may be brought into danger by an inquiry, it is very natural to suppose, that such a gentleman's opposition to an inquiry does not proceed entirely from motives of a public nature; and if that gentleman follows the advice of some of his friends, I very much question if he will ever see cause, or a convenient time, for an inquiry into the late conduct of our public affairs. As a parliamentary inquiry must always be founded upon suspicions as well as facts, or manifest crimes, it will always be easy to find reasons or pretences for averring those suspicions to be groundless; and upon the principle that a parliamentary inquiry must necessarily lay open the secrets of our government, no time can ever be proper or convenient for such an inquiry, because it is impossible to suppose a time when our government can have no secrets of importance to the nation.

"This, Sir, would be a most convenient doctrine for ministers, because it would put an end to all parliamentary inquiries into the conduct of our public affairs; and therefore, when I hear it urged, and so much insisted upon by a certain set of gentlemen in this House, I must suppose their hopes to be very extensive. I must suppose them to expect that they and their posterity will for ever continue to be ministers; which, if possible, would be more fatal to it than their having so long continued to be so. But this doctrine has been so often contradicted by experience, that I am surprised to hear gentlemen insist upon it. Even this very session has afforded us a convincing proof how little foundation there is for saying that a parliamentary inquiry must necessarily discover the secrets of our government.

* Mr George Cooke, of Harefield.

Surely, in a war with Spain, which must be carried on chiefly by sea, if our government have any secrets the Lords of the Admiralty must be entrusted with the most important of them; yet we have, in this very session, and without any secret committees, made an inquiry into the conduct of the Lords Commissioners of our Admiralty. We have not only inquired into their conduct, but we have censured it in such a manner as hath put an end to the same commissioners being any longer entrusted with that branch of the public business. Has that inquiry discovered any of the secrets of our government? On the contrary, the committee found they had no occasion to probe into any of the secrets of government. They found cause enough for censure without it; and none of the commissioners pretended to justify their conduct by papers containing secrets which ought not to be discovered.

"This, Sir, is so recent and so strong a proof of there being no necessary connexion between a parliamentary inquiry and a discovery of secrets which it behoves the nation to conceal, that I hope gentlemen will no longer insist upon this danger as an argument against the inquiry now proposed, which, of all others, is the least liable to objection. The first commissioner of the treasury has nothing to do with the application of secret service money. He is only to take care that it be regularly issued from his office, and that no more shall be issued upon that head, than according to the then conjuncture of affairs may seem to be necessary. As to the particular application, it properly belongs to the secretaries of state, or such other persons as his Majesty shall employ; so that we cannot suppose the inquiry proposed will discover any secrets relating to the application of that money, unless the noble lord has acted as secretary of state, as well as first commissioner of the treasury; or unless a great part of the money drawn out for secret services has been delivered to himself, or to persons employed by him, and applied by him or them towards gaining a corrupt influence in parliament, or at elections. Both these, indeed, he is most grievously suspected of, and both are secrets which it behoves him very much to have concealed; but it equally behoves the nation to have them both revealed. His country and he are, I grant, in this cause equally, though oppositely, concerned; for the safety or ruin of one or the other depends upon the fate of the question; and, in my opinion, the violent opposition made to this motion adds great strength to the suspicion.

"I shall admit, Sir, that the noble lord whose conduct is now proposed to be inquired into, was one of his Majesty's most honourable privy council, and that consequently he must have had a share at least in advising all the measures which have been pursued, both abroad and at home; but I cannot admit, that therefore an inquiry into his conduct must necessarily occasion a discovery of any secrets that may be of dangerous consequence to the nation; because we are not to inquire into the measures themselves, or into the wisdom or uprightness of them, and consequently can have no necessity to search into any of the Government's secrets relating to them. This has

nothing to do with an inquiry into his conduct; but there are several suspicions spread abroad relating to his conduct as a privy counsellor, which, if true, would be of the last importance to the nation to have discovered. It has been strongly asserted, that he was not only a privy counsellor, but had usurped the whole and sole direction of his Majesty's privy council. It has been asserted, that he gave the Spanish court the first hint of the unjust claim they afterwards set up against our South Sea Company, which was one of the chief causes of the war between the two nations. And it has been asserted, that this very minister has given advice to the French what measures to take upon several occasions, in order to bring our court into their measures; particularly, that he advised them to send the numerous army they have this last summer sent into Westphalia. What truth there is in these assertions, I shall not pretend to answer. The facts are of such a nature, and they must have been perpetrated with so much caution and secresy, that it will be difficult to bring them to light, even by a parliamentary inquiry; but the very suspicion is ground enough for setting up such an inquiry, and for carrying it on with the utmost strictness and vigour; which leads me to consider the cause we now have for an inquiry.

"Whatever my opinion of past measures may be, I shall never be so vain or bigoted to my own opinion, as, without any inquiry, to determine against the majority of my countrymen. If I found the public measures generally condemned, let my private opinion of them be never so favourable, I should be for an inquiry, in order to convince the people of their error, or at least to furnish myself with the most authentic arguments for the opinion I have embraced. The desire of bringing other people into our sentiments is so natural to mankind that I shall always suspect the candour of those who, in politics or religion, are against a free inquiry. Besides, Sir, when the complaints of the people are general against an administration, or against any particular minister, an inquiry is a duty we owe to our Sovereign as well as the people. We meet here to communicate to our Sovereign the sentiments of his people. We meet here to redress the grievances of the people. By performing our duty in these two respects, we shall always be able to establish the throne of our Sovereign in the hearts of his people, and to prevent the people's being led into insurrections or rebellions by misrepresentations or false surmises. When the people complain, they must be in the right or in the wrong. If they are in the right, we are in duty bound to inquire into the conduct of the ministers, and punish those who shall appear to have been the most guilty. If the people are in the wrong, we ought to inquire into the conduct of our ministers, in order to convince the people that they have been misled. We ought not, therefore, in any question about an inquiry, to be governed by our own sentiments. We must be governed by the sentiments of our constituents, if we are resolved to perform our duty, either as true representatives of the people, or as faithful messengers to our Sovereign. I will agree with the honourable gentleman, that if we are convinced, or suspect, the public measures to be

wrong, we ought to inquire into them, even though they are not much complained of by the people without doors; but I cannot agree with him in thinking that, notwithstanding the administration, or a minister's being complained of by the people in general without doors, we ought not to inquire into his conduct, unless we are ourselves convinced that his measures have been wrong. Without an inquiry, we can no more determine this question than a judge can declare a man innocent of any crime laid to his charge without a trial. Common fame is a sufficient ground for an inquisition at common law; and, for the same reason, the general voice of the people of England ought always to be looked on as a sufficient ground for a parliamentary inquiry.

"But, say gentlemen, what is this minister accused of? What crime is laid to his charge? For, unless some misfortune is said to have happened, or some crime to have been committed, no inquiry ought to be set on foot. Sir, the ill posture of our affairs, both abroad and at home, the melancholy situation we are in, the distresses we are now reduced to, are sufficient causes for an inquiry, even supposing he were accused of no particular crime or misconduct. The nation lies bleeding, perhaps expiring. The balance of power has received a deadly blow. Shall we acknowledge this to be the case, and shall we not inquire whether it has happened by mischance, or by the misconduct, perhaps the malice prepense, of our minister here at home? Before the treaty of Utrecht,* it was the general opinion, that in a few years of peace we should be able to pay off most of our debts. We have now been very near thirty years in profound peace; at least, we have never been engaged in any war but what we unnecessarily brought upon ourselves; and yet our debts are near as great as they were when that treaty was concluded. Is not this a misfortune, and shall we make no inquiry how this misfortune has happened?

"I am surprised to hear it said, that no inquiry ought to be set on foot unless some public crime be known to have been committed. The suspicion of any crime having been actually committed, has always been deemed a sufficient reason for setting up an inquiry. Is there not a suspicion that the public money has been applied towards gaining a corrupt influence at elections? Is it not become a common expression to say, 'The floodgates of the treasury are opened against a general election?' I shall desire no more than that every gentleman, who is conscious of this having been done, either for or against him, would give his vote in favour of this motion. Will any gentleman say this is not a crime, when even private corruption has such high penalties inflicted upon it by express statute? A minister that commits this crime, and makes use of the public money for that purpose, adds breach of trust to the crime of corruption; and as the crime, when committed by him, is of much more dangerous consequence than when committed by a private man, it becomes more properly the object of a parliamentary inquiry,

* The Treaty of Utrecht was signed on the 31st March, 1713.

and ought to be more severely punished. The honourable gentleman may much more reasonably tell us that Porteus was never murdered by the mob at Edinburgh,* because no discovery of his murderers could ever yet be made, notwithstanding the high reward, as well as pardon, offered, than to tell us, we cannot suppose our minister ever, by himself or his agents, corrupted an election, because no information has yet been brought against him; for nothing but a pardon, on convicting the offender, has ever yet been offered in this case; and how could any informer expect such a pardon, much less a reward, when he knew the very man against whom he was to inform had not only the distribution of all public rewards, but the packing of a jury or Parliament against him? Sir, whilst such a minister preserves the favour of the Crown, and thereby the exercise of its power, we can never expect such an information. Even malice itself can never provoke such an information; because, like all other sorts of impotent malice, it will rebound upon the heart that conceived it.

"This shows the insignificancy of the act mentioned by the honourable gentleman, with regard to that sort of corruption which is called bribery; and with regard to the other sort of corruption, which consists in giving or taking away those posts, pensions, or preferments, which depend upon the arbitrary will of the Crown; this act is still more insignificant, because it is not necessary; it would even be ridiculous in a minister to tell any man that he gave or refused him a post, pension, or preferment, on account of his voting for or against any ministerial measure in Parliament, or any ministerial candidate at an election. If he makes it his constant rule never to give a post, pension, or preferment, but to those who vote for his measures and his candidates, and makes a few examples of dismissing those who vote otherwise,† it will have the same effect as when he declares it openly. Will any gentleman say, that this has not been the practice of the minister whose conduct is now proposed to be inquired into? Has he not declared, in the face of this House, that he will continue to make this his practice? And will not this have the same effect as if he went separately and distinctly to every particular man, and told him, in express terms: 'Sir, if you vote for such a measure, or such a candidate, you shall have the first preferment in the gift of the Crown; if you vote otherwise, you must not expect to keep what you have.' Gentlemen may deny the sun shines at noon-day; but if they have any eyes, and do not wilfully shut them, or turn their backs towards him, I am sure no man will believe they are ingenuous in what they say; and therefore I think the honourable gentleman was in the right who endeavoured to justify this practice. It was more candid than to deny it; but

* John Porteus was an officer of the guard of the city of Edinburgh, and had fired on the people at the time of the execution of a smuggler, at which he was present to preserve order. He was tried for murder, and sentenced to death. A reprieve, however, having been sent, the populace broke into the prison where he was confined, brought him out, and executed him themselves, 1736.

† See note page 5.

as his arguments have been already fully answered, I shall add nothing upon that subject.

"Gentlemen cry out, What! will you take from the Crown the power of preferring or cashiering the officers of our army? No, Sir; this is neither the design, nor will it be the effect, of our agreeing to this motion. The King has, at present, an absolute power of preferring or cashiering the officers of our army. It is a prerogative he may make use of for the benefit or safety of the public; but, like other prerogatives, it may be made a wrong use of; and the minister is answerable to Parliament when it is. When an officer is preferred, or cashiered, upon the motive of his voting for or against any court measure or candidate, it is a wrong use of this prerogative, for which the minister is answerable. We may judge from circumstances, or outward appearances. From these we may condemn; and I hope we have still a power to punish any minister that will dare to advise the King to prefer or cashier upon such a motive. Whether this prerogative ought to remain as it is, without any limitation, is a question that has nothing to do in this debate; but I must observe, that the argument made use of for it might with equal weight be made use of for giving our King an absolute power over every man's property; for a large property will always give the possessor a command over a great number of men, whom he may arm and discipline if he pleases. I know of no law for restraining it. I hope there never will be any such; and I wish our gentlemen of estates would make more use of this power than they do, because it would contribute towards keeping our domestic, as well as our foreign, enemies in awe. For my part, I think a gentleman who has earned his commission by his services (in his military capacity I mean), or bought it with his money, has as much a property in it as any man has in his estate, and ought to have it as well secured by the laws of his country. Whilst it remains at the absolute will of the Crown, he must be a slave to the minister, unless he has some other estate to depend on; and if the officers of our army long continue in that state of slavery in which they are at present, I am afraid it will make slaves of us all.

"The only method we have for preventing this fatal consequence, as the law now stands, is to make the best and most constant use of the power we have, as members of this House, to prevent any minister's daring to advise the King to make a bad use of his prerogative; and as there is such a strong suspicion that this minister has done so, we ought certainly to inquire into it, not only for the sake of punishing him, if guilty, but as a terror to all future ministers.

"This, Sir, may therefore be justly reckoned among the many other sufficient causes for the inquiry proposed; and the suspicion of the civil list's being greatly in debt, is another; for if it is, it must either have been misapplied or profusely thrown away, which it is our duty both to prevent and punish. It is inconsistent with the honour of this nation to have our King stand indebted to his servants or tradesmen, who may be ruined by a delay

of payment. The Parliament has provided sufficiently for preventing this dishonour being brought upon the nation; and if the provision we have made should be misapplied or lavished, we must supply the deficiency: we ought to do it, whether the King makes any application for that purpose or no; and the reason is very plain, because we ought first to inquire into the management of that revenue, and punish those who have occasioned the deficiency. They will certainly choose to leave the creditors of the crown and the honour of the nation in a state of suffering, rather than advise the King to make an application which will bring their conduct into question, and themselves probably to condign punishment. Beside this, Sir, there is at present another reason still stronger for promoting an inquiry. As there is a great suspicion that the public money has been applied towards corrupting voters at elections, and members when elected, if the civil list be in debt, it gives reason to presume that some part of this revenue has, under the pretence of secret service money, been applied to that wicked purpose.

"I shall conclude, Sir, with a few remarks upon the last argument made use of against the inquiry proposed. It has been said, that the minister delivered in his accounts annually; that those accounts have been annually passed and approved of by Parliament; and that therefore it would be unjust to call him now to a general account, because the vouchers may now be lost, or many expensive transactions have slipped out of his memory. 'Tis true, Sir, estimates and accounts have been annually delivered in. The forms of proceeding made that necessary; but were any of those estimates or accounts ever properly inquired into? Were not all questions for that purpose rejected by the minister's friends in Parliament? Has not the Parliament always taken them upon trust, and passed them without examination? Can such a superficial passing, to call it no worse, be deemed a reason for not calling him to a new and general account? If the steward to an infant's estate should annually, for twenty years together, deliver in his accounts to the guardians; and if the guardians, through negligence, or for a share of the plunder, should annually pass his accounts without any examination, or at least without any objection; would that be a reason for saying, that it would be unjust in the infant to call his steward to an account when he came of age? especially if that steward had built and furnished sumptuous palaces, and had, during the whole time, lived at a much greater expense than his visible income could afford, and yet nevertheless had amassed great riches. The public, Sir, is always in a state of infancy; therefore no prescription can be pleaded against it, nor even a general release, if there appears the least cause to suspect that it was surreptitiously obtained. Public vouchers ought always to remain upon record; nor ought there to be any public expense without a proper voucher; therefore, the case of the public is still stronger than that of any infant. Thus the honourable gentleman who made use of this objection must see of how little avail it can be in the case now before us; and consequently I hope we shall have his concurrence in the question."

The motion was carried, but the inquiry was afterwards defeated by the persons brought up for examination, including Mr Paxton, solicitor to the Treasury, claiming an exemption, on the plea that they might render themselves liable to prosecution.

A bill for their indemnity was passed in the House of Commons, but rejected by the House of Lords, and consequently the inquiry dropped.

Mr Pitt was appointed Paymaster of the Forces in February, 1746. During the time that he held this office, he never received any pecuniary benefit from investing the monies belonging to the office (as had been the custom with his predecessors), but always placed the same in the Bank ready to be appropriated for the public service.

The following is also an instance of the truly noble and high-minded character of Lord Chatham:—

The subsidies granted to the King of Sardinia and Queen of Hungary, at that time were made payable at the office of the Paymaster of the Forces, and it was the custom to retain, as a perquisite of office, at least half per cent. from the whole amount of the subsidies. This perquisite, however, Mr Pitt refused to accept; and upon the King of Sardinia being so informed, he expressed much surprise at such great disinterestedness, and directed his agent to offer to Mr Pitt the same sum as a royal present; but Mr Pitt replied, that as Parliament had granted those sums for such uses, he had no right to any part of the money; that he did no more than his duty in paying it entire; and hoped the refusal of the King's present would not, therefore, give offence. When his Sardinian Majesty heard this he said, "Surely this Englishman is somewhat more than a man."

The following is the only reported part of Mr Pitt's speech in support of a clause in the Mutiny Bill, introduced by Mr Pelham (who was of Mr Pitt's own party), by which it was proposed to subject officers on half-pay to martial law. The bill created great excitement in the army and navy, as well as in Parliament.—1748.

"What danger can arise from obliging a half-pay officer to continue upon the military establishment? It is admitted on all hands, that while he is in full pay he must employ his time, his study, and even his sword, as his superiors shall direct. There may possibly be danger in this, but it never can happen until the direction becomes wicked, nor prevented but by the virtue of the army. It is to that virtue we even at this time trust, small as our army is; it is to that virtue we must have trusted had this bill been modelled as its warmest opposers could have wished; and without this virtue, should the Lords, the Commons, and the people of England, entrench themselves behind parchment up to the teeth, the sword will find a passage to the vitals of the constitution."

The following speech was delivered by Mr Pitt, in opposition to the famous *American Stamp Act;* which had been brought forward by Mr Grenville, by the desire of George III.

The immediate motion before the House was, for an address to the King, after his speech on the opening of Parliament, on the 14th January, 1765.

"Sir,

"I came to town but to-day; I was a stranger to the tenor of his Majesty's speech, and the proposed address, till I heard them read in this House. Unconnected and unconsulted, I have not the means of information; I am fearful of offending through mistake, and therefore beg to be indulged with a second reading of the proposed address." [The address having been again read, Mr Pitt expressed his approval of the King's speech, and of the address, inasmuch as the latter left the members of the House at liberty to adopt their own views upon the American question, and then resumed:—] "One word only I cannot approve of—an *early*, is a word that does not belong to the notice the Ministry have given to Parliament of the troubles in America. In a matter of such importance, the communication ought to have been immediate: I speak not with respect to parties; I stand up in this place single and unconnected. As to the late Ministry,* every capital measure they have taken has been entirely wrong!

"As to the present gentlemen, to those at least whom I have in my eye, I have no objection;† I have never been made a sacrifice by any of them. Their characters are fair; and I am always glad when men of fair character engage in his Majesty's service. Some of them have done me the honour to ask my opinion before they would engage. These would do me the justice to own, I advised them to engage; but notwithstanding—I love to be explicit—I cannot give them my confidence; pardon me, gentlemen, confidence is a plant of slow growth in an aged bosom: youth is the season of credulity; by comparing events with each other, reasoning from effects to causes, methinks I plainly discover the traces of an over-ruling influence.

"There is a clause in the act of settlement to oblige every minister to sign his name to the advice which he gives his Sovereign. Would it were observed! I have had the honour to serve the Crown, and if I could have submitted to influence, I might have still continued to serve; but I would not be responsible for others. I have no local attachments; it is indifferent to me, whether a man was rocked in his cradle on this side or that side of the Tweed. I sought for merit wherever it was to be found. It is my boast, that I was the first minister who looked for it, and I found it in the mountains in the North. I called it forth, and drew it into your service, a

* In the course of the summer of 1765, a change in the administration had taken place, and Mr Grenville went out of office. The Duke of Rockingham became first Lord of the Treasury, and General Conway and the Duke of Grafton were appointed Secretaries of State.

† Mr Pitt here looked at General Conway and the Treasury benches.

hardy and intrepid race of men! men, who, when left by your jealousy, became a prey to the artifices of your enemies, and had gone nigh to have overturned the state in the war before the last. These men, in the last war, were brought to combat on your side; they served with fidelity, as they fought with valour, and conquered for you in every part of the world. Detested be the national reflections against them!—they are unjust, groundless, illiberal, unmanly. When I ceased to serve his Majesty as a minister, it was not the *country* of the man by which I was moved—but *the man* of that country wanted *wisdom*, and held principles incompatible with *freedom*.*

"It is a long time, Mr Speaker, since I have attended in Parliament. When the resolution was taken in the House to tax America,† I was ill in bed. If I could have endured to have been carried in my bed, so great was the agitation of my mind for the consequences, I would have solicited some kind hand to have laid me down on this floor, to have borne my testimony against it! It is now an act that has passed—I would speak with decency of every act of this House, but I must beg the indulgence of the House to speak of it with freedom.

"I hope a day may be soon appointed to consider the state of the nation with respect to America. I hope gentlemen will come to this debate with all the temper and impartiality that his Majesty recommends, and the importance of the subject requires—a subject of greater importance than ever engaged the attention of this House; that subject only excepted when, near a century ago, it was the question whether you yourselves were to be bound or free. In the meantime, as I cannot depend upon health for any future day, such is the nature of my infirmities, I will beg to say a few words at present, leaving the justice, the equity, the policy, the expediency of the act, to another time. I will only speak to one point—a point which seems not to have been generally understood—I mean to the right. Some gentlemen seem to have considered it as a point of honour.‡ If gentlemen consider it in that light, they leave all measures of right and wrong, to follow a delusion that may lead to destruction. It is my opinion, that this kingdom has no right to lay a tax upon the colonies. At the same time, I assert the authority of this kingdom over the colonies to be sovereign and supreme, in every circumstance of government and legislation whatsoever. They are the subjects of this kingdom, equally entitled with yourselves to all the natural rights of mankind and the peculiar privileges of Englishmen; equally bound by its laws, and equally participating of the constitution of this free country. The Americans are the sons, not the bastards of England. Taxation is no part of the governing or legislative power. The taxes are a

* He alludes here to his retirement from the Cabinet on 5th October, 1761, in consequence of Lord Bute's influence over the King.

† The resolution for taxing the North American Colonies were first proposed by Mr Grenville, in March 1765.

‡ Mr Nugent (afterwards Lord Clare) was of this opinion.

voluntary gift and grant of the Commons alone. In legislation the three estates of the realm are alike concerned, but the concurrence of the Peers and the Crown to a tax, is only necessary to clothe it with the form of a law. The gift and grant is of the Commons alone. In ancient days the Crown, the barons, and the clergy possessed the lands. In those days the barons and the clergy gave and granted to the Crown. They gave and granted what was their own. At present, since the discovery of America, and other circumstances permitting, the Commons are become the proprietors of the land. The Church (God bless it) has but a pittance. The property of the Lords, compared with that of the Commons, is as a drop of water in the ocean; and this House represents those Commons, the proprietors of the lands; and those proprietors virtually represent the rest of the inhabitants. When, therefore, in this house we give and grant, we give and grant what is our own. But in an American tax, what do we do? We, your Majesty's Commons for Great Britain, give and grant to your Majesty—what? Our own property?—No. We give and grant to your Majesty the property of your Majesty's Commons of America. It is an absurdity in terms.

"The distinction between legislation and taxation is essentially necessary to liberty. The Crown, the Peers, are equally legislative powers with the Commons. If taxation be a part of simple legislation, the Crown and the Peers have rights in taxation as well as yourselves; rights which they will claim, which they will exercise, whenever the principle can be supported by power.

"There is an idea in some, that the colonies are virtually represented in the House. I would fain know by whom an American is represented here? Is he represented by any knight of the shire, in any county in this kingdom? Would to God that respectable representation was augmented to a greater number! Or will you tell him that he is represented by any representative of a borough—a borough which perhaps no man ever saw? This is what is called the rotten part of the constitution. It cannot continue a century: if it does not drop, it must be amputated. The idea of a virtual representation of America in this House, is the most contemptible idea that ever entered into the head of a man—it does not deserve a serious refutation.

"The Commons of America, represented in their several assemblies, have ever been in possession of the exercise of this, their constitutional right of giving and granting their own money. They would have been slaves, if they had not enjoyed it. At the same time, this kingdom, as the supreme governing and legislative power, has always bound the colonies by her laws, by her regulations, and restrictions in trade, in navigation, in manufactures—in everything, except that of taking their money out of their pockets without their consent.

"Here I would draw the line—

"'Quam ultra citraque neque consistere rectum.'"

[Mr Grenville, in reply, defended his own policy, and insisted that, as this

country was acknowledged to possess supreme legislative power over America, taxation was a part of that sovereign power; and that it had been frequently exercised over those who were represented; and instanced the case of the East India Company, the proprietors of the public funds, the Palatine of Chester, and the Bishopric of Durham, before they sent representatives to Parliament. On this Mr Pitt again rose, and addressed the House thus :—]

"I did not mean to have gone any further upon the subject to-day; I had only designed to have thrown out a few hints, which gentlemen, who were so confident of the right of this kingdom to send taxes to America, might consider; might perhaps reflect, in a cooler moment, that the right was at least equivocal. But since the gentleman who spoke last, has not stopped on that ground, but has gone into the whole, into the justice, the equity, the policy, the expediency of the stamp act, as well as into the right, I will follow him through the whole field, and combat his arguments on every point."

[A question of order here arose, in consequence of Mr Pitt having previously spoken. The Speaker having, however, decided that he was in order, he proceeded thus :—]

"I do not apprehend I am speaking twice: I did expressly reserve a part of my subject, in order to save the time of this House, but I am compelled to proceed in it. I do not speak twice; I only finish what I designedly left imperfect. But if the House is of a different opinion, far be it from me to indulge a wish of transgression against order. I am content, if it be your pleasure, to be silent."

[But the House calling upon him to proceed, he thus continued :—]

"Gentlemen, Sir, have been charged with giving birth to sedition in America.* They have spoken their sentiments with freedom against this unhappy act, and that freedom has become their crime. Sorry I am to hear the liberty of speech in this House imputed as a crime. But the imputation shall not discourage me. It is a liberty I mean to exercise. No gentleman ought to be afraid to exercise it. It is a liberty by which the gentleman who calumniates it might have profited. He ought to have desisted from his project. The gentleman tells us, America is obstinate; America is almost in open rebellion. I rejoice that America has resisted. Three millions of people so dead to all the feelings of liberty, as voluntarily to submit to be slaves, would have been fit instruments to make slaves of the rest. I come not here, armed at all points with law cases and Acts of Parliament, with the statute book doubled down in dogs' ears, to defend the cause of liberty: if I had, I myself would have cited the two cases of Chester and Durham.

* Mr Grenville, in his speech, had said, that the Americans had been encouraged to sedition by the factious language of the opposition members.

I would have cited them, to have shown that, even under any arbitrary reigns, parliaments were ashamed of taxing a people without their consent, and allowed them representatives. Why did the gentleman confine himself to Chester and Durham? he might have taken a higher example in Wales; Wales, that never was taxed by Parliament till it was incorporated. I would not debate a particular point of law with the gentleman: I know his abilities, I have been obliged to his diligent researches: but, for the defence of liberty upon a general principle, upon a constitutional principle, it is a ground on which I stand firm; on which I dare meet any man. The gentleman tells us of many who are taxed, and are not represented: the India Company, merchants, stock-holders, manufacturers. Surely many of these are represented on other capacities, as owners of land, or as freemen of boroughs. It is a misfortune that more are not equally represented. But they are all inhabitants, and as such, are they not virtually represented? Many have it in their option to be actually represented. They have connexions with those that elect, and they have influence over them. The gentleman mentioned the stock-holders: I hope he does not reckon the debts of the nation as a part of the national estate.

"Since the accession of King William, many ministers, some of great, others of more moderate abilities, have taken the lead of government. None of these thought, or ever dreamed, of robbing the colonies of their constitutional rights. That was reserved to mark the era of the late administration; not that there were wanting some, when I had the honour to serve his Majesty, to propose to me to burn my fingers with an American stamp act. With the enemy at their back, with our bayonets at their breasts, in the day of their distress, perhaps the Americans would have submitted to the imposition; but it would have been taking an ungenerous and unjust advantage. The gentleman boasts of his bounties to America!* Are not those bounties intended finally for the benefit of this kingdom? If they are not, he has misapplied the national treasures. I am no courtier of America—I stand up for this kingdom. I maintain that the Parliament has a right to bind, to restrain America. Our legislative power over the colonies is sovereign and supreme. When it ceases to be sovereign and supreme, I would advise every gentleman to sell his lands, if he can, and embark for that country. When two countries are connected together, like England and her colonies, without being incorporated, the one must necessarily govern; the greater must rule the less; but so rule it, as not to contradict the fundamental principles that are common to both.

"If the gentleman does not understand the difference between external and internal taxes, I cannot help it; but there is a plain distinction between taxes levied for the purpose of raising a revenue, and duties imposed for the regulation of trade, for the accommodation of the subject; although, in the consequences, some revenue might incidentally arise from the latter.

* Mr Grenville had charged the Americans with exhibiting ingratitude to this country, after bounties had been given on their timber, iron, hemp, and other articles.

"The gentleman asks, when were the colonies emancipated?"* But I desire to know when they were made slaves. But I dwell not upon words. When I had the honour of serving his Majesty, I availed myself of the means of information which I derived from my office; I speak, therefore, from knowledge. My materials were good: I was at pains to collect, to digest, to consider them; and I will be bold to affirm, that the profits to Great Britain from the trade of the colonies, through all its branches, is two millions a year. This is the fund that carried you triumphantly through the last war. The estates that were rented at two thousand pounds a year threescore years ago, are at three thousand pounds at present. Those estates sold then from fifteen to eighteen years' purchase; the same may now be sold for thirty. You owe this to America. This is the price America pays for her protection. And shall a miserable financier come with a boast, that he can fetch a pepper-corn in the Exchequer, to the loss of millions to the nation? I dare not say, how much higher these profits may be augmented. Omitting the immense increase of people by natural population, in the northern colonies, and the emigration from every part of Europe, I am convinced the commercial system of America may be altered to advantage. You have prohibited where you ought to have encouraged, and encouraged where you ought to have prohibited. Improper restraints have been laid on the continent, in favour of the islands. You have but two nations to trade with in America. Would you had twenty! Let acts of parliament in consequence of treaties remain, but let not an English minister become a custom-house officer for Spain, or for any foreign power. Much is wrong, much may be amended for the general good of the whole.

"Does the gentleman complain he has been misrepresented in the public prints? It is a common misfortune. In the Spanish affair of last war, I was abused in all the newspapers, for having advised his Majesty to violate the law of nations with regard to Spain. The abuse was industriously circulated even in hand-bills. If administration did not propagate the abuse, *administration never contradicted it.* I will not say what advice I did give to the King. My advice is in writing, signed by myself, in the possession of the Crown.† But I will say what advice I did not give to the King: I did not advise him to violate any of the laws of nations.

* Mr Grenville, in his speech, made use of this unfortunate expression.

† Mr Pitt alludes to his policy in 1761, when (being convinced of the hostile feelings of the Spanish government towards England, although they professed a desire to settle all disputes amicably, and having, it is said, by private means, actual information of the family compact between France, Spain, and Austria, having been signed on the part of Spain) he strongly insisted, in council, that England should strike the first blow and immediately seize on the Spanish galleons, and, in order to take the full responsibility of this advice upon himself, he reduced his proposition to writing, and delivered it in signed by himself and Lord Temple. His advice being rejected, Mr Pitt at once resigned, and for his conduct on this occasion he was abused in the most violent terms by many of the public papers. Before the close of the year 1761, Mr Pitt's ideas of the real intentions of the King of Spain (Charles III.) were verified, and war was declared between the two countries.

"As to the report of the gentleman's preventing in some way the trade for bullion with the Spaniards, it was spoken of so confidently, that I own I am one of those who did believe it to be true.*

"The gentleman must not wonder he was not contradicted, when, as the minister, he asserts the right of Parliament to tax America. I know not how it is, but there is a modesty in this House which does not choose to contradict a minister. I wish gentlemen would get the better of this modesty. Even that chair, Sir, sometimes looks towards St James's. If they do not, perhaps the collective body may begin to abate of its respect for the representative. Lord Bacon had told me, that a great question would not fail of being agitated at one time or another. I was willing to agitate that at the proper season; the German war, my German war, they called it. Every session I called out, Has anybody any objections to the German war? Nobody would object to it, one gentleman only excepted, since removed to the Upper House, by succession to an ancient barony.† 'He did not like a German war.' I honoured the man for it, and was sorry when he was turned out of his post.

"A great deal has been said without doors, of the power, of the strength of America. It is a topic that ought to be cautiously meddled with. In a good cause, on a sound bottom, the force of this country can crush America to atoms. I know the valour of your troops. I know the skill of your officers. There is not a company of foot that has served in America, out of which you may not pick a man of sufficient knowledge and experience to make a governor of a colony there. But on this ground, on the Stamp Act, when so many here will think it a crying injustice, I am one who will lift up my hands against it.

"In such a cause, your success would be hazardous. America, if she fell, would fall like the strong man. She would embrace the pillars of the state, and pull down the constitution along with her. Is this your boasted peace? Not to sheath the sword in its scabbard, but to sheath it in the bowels of your countrymen? Will you quarrel with yourselves, now the whole House of Bourbon is united against you? while France disturbs your fisheries in Newfoundland, embarrasses your slave-trade to Africa, and withholds from your subjects in Canada their property stipulated by treaty? while the ransom for the Manillas is denied by Spain, and its gallant conqueror basely traduced into a mean plunderer, a gentleman whose noble and generous spirit would do honour to the proudest grandee of the country?‡ The Americans have not acted in all things with prudence and temper. The Americans have

* Mr Grenville had said, "I have been particularly charged with giving orders and instructions to prevent the Spanish trade, and thereby stopping the channel by which alone North America used to be supplied with cash for remittances to this country; I defy any man to produce any such orders or instructions."

† Lord le Despencer, formerly Sir F. Dashwood.

‡ Manilla, the capital of the Manillas or Philippine Islands, belonging to Spain, surrendered to Sir Wm Draper, in 1762; but a ransom of four million dollars was agreed to be given for all private property, and accepted.

been wronged. They have been driven to madness by injustice. Will you punish them for the madness you have occasioned? Rather let prudence and temper come first from this side. I will undertake for America, that she will follow the example. There are two lines in a ballad of Prior's, of a man's behaviour to his wife, so applicable to you and your colonies, that I cannot help repeating them:—

"'Be to her faults a little blind:
Be to her virtues very kind.'

"Upon the whole, I will beg leave to tell the House what is really my opinion. It is, that the Stamp Act be *repealed absolutely*, *totally*, and *immediately*. That the reason for the repeal be assigned, because it was founded on an erroneous principle. At the same time, let the sovereign authority of this country over the colonies be asserted in as strong terms as can be devised, and be made to extend to every point of legislation whatsoever. That we may bind their *trade*, confine their *manufactures*, and exercise every *power* whatsoever, except that of taking their money out of their pocket withou their consent."

The motion was carried without a division.

Speech of Lord Chatham on the motion for an address to the King, after his Majesty's speech on the opening of Parliament, on the 9th of January, 1770.

Mr Pitt had been raised to the peerage in July, 1766, by the titles of "Viscount Pynsent and Earl of Chatham."

The greater part of this speech is, unfortunately, only reported in the third person, but connected as it is with the speech immediately following, it could not be omitted:—

"His Lordship, after complimenting the mover of the address (Lord Ancaster), took notice how happy it would have made him to have been able to concur with the noble Duke in every part of an address, which was meant as a mark of respect and duty to the Crown, professed personal obligations to the King, and veneration for him; that, though he might differ from the noble Duke in the form of expressing his duty to the Crown, he hoped he should give his Majesty a more substantial proof of his attachment than if he agreed with the motion. That, at his time of life, and loaded as he was with infirmities, he might, perhaps, have stood excused if he had continued in his retirement, and never taken part again in public affairs. But that the alarming state of the nation called upon him, forced him to come forward once more, and to execute that duty which he owed to God, to his sovereign, and to his country; that he was determined to perform it, even at the hazard of his life; that there never was a period which called more forcibly than the present, for the serious attention and consideration of that House; that, as they were the grand hereditary counsellors of the Crown, it was particularly their duty, at a crisis of such importance and danger, to lay before their Sovereign the true

state and condition of his subjects, the discontent which universally prevailed amongst them, the distresses under which they laboured, the injuries they complained of, and the true causes of this unhappy state of affairs.

"That he had heard with great concern of the distemper among the cattle,* and was very ready to give his approbation to those prudent measures which the council had taken for putting a stop to so dreadful a calamity. That he was satisfied there was a power, in some degree arbitrary, with which the constitution trusted the Crown, to be made use of under correction of the legislature, and at the hazard of the minister, upon any sudden emergency, or unforeseen calamity, which might threaten the welfare of the people, or the safety of the state.† That on this principle he had himself advised a measure which he knew was not strictly legal; but he had recommended it as a measure of necessity, to save a starving people from famine, and had submitted to the judgment of his country.

"That he was extremely glad to hear, what he owned he did not believe when he came into the House, that the King had reason to expect that his endeavours to secure the peace of this country would be successful; for that certainly a peace was never so necessary as at a time when we were torn to pieces by divisions and distractions in every part of his Majesty's dominions. That he had always considered the late peace, however necessary in the then exhausted condition of this country, as by no means equal in point of advantage to what we had a right to expect from the successes of the war, and from the still more exhausted condition of our enemies. That having deserted our allies, we were left without alliances, and, during a peace of seven years, had been every moment on the verge of a war: that, on the contrary, France had attentively cultivated her allies, particularly Spain, by every mark of cordiality and respect. That if a war was unavoidable, we must enter into it without a single ally, while the whole house of Bourbon was united within itself, and supported by the closest connexions with the principal powers in Europe. That the situation of our foreign affairs was undoubtedly a matter of moment, and highly worthy their lordships' consideration; but that he

* Mentioned by the King in his speech.

† In consequence of a seditious libel appearing in No. 45 of the "*North Briton*," accusing the King of knowingly uttering falsehoods from the throne, on the opening of Parliament in April, 1763, ministers took upon themselves to issue a *general warrant*, on the 26th of April, for the seizure of the *authors*, *printers*, and *publishers*, without designating any by name; by virtue of which, after many persons had been seized, Mr John Wilkes, at that time a member of parliament for Aylesbury, was arrested. Whereupon an application was made to the Court of Common Pleas, for a writ of *habeas corpus*, but, before the writ could be issued, he was removed to the Tower, for refusing to answer questions; upon which another writ of *habeas corpus* was obtained from the Common Pleas, directed to the constable of the Tower: and, on the case coming on for argument, Chief-Justice Pratt (afterwards Lord Camden), though he considered the commitment legal, according to precedent, directed Mr Wilkes to be set at liberty, on the ground that it was a breach of the privileges of Parliament to arrest him for anything less than *treason*, *felony*, or breach of the peace.

declared with grief, there were other matters still more important, and more urgently demanding their attention; he meant the distractions and divisions which prevailed in every part of the empire. He lamented the unhappy measure which had divided the colonies from the mother country, and which he feared had drawn them into excesses which he could not justify. He owned his natural partiality to America, and was inclined to make allowance even for those excesses. That they ought to be treated with tenderness; for in his sense they were ebullitions of liberty, which broke out upon the skin, and were a sign, if not of perfect health, at least of a vigorous constitution, and must not be driven in too suddenly, lest they should strike to the heart. He professed himself entirely ignorant of the present state of America, therefore should be cautious of giving any opinion of the measures fit to be pursued with respect to that country. That it was a maxim he had observed through life, when he had lost his way, to stop short, lest by proceeding without knowledge, and advancing (as he feared a noble duke had done) from one false step to another, he should wind himself into an inextricable labyrinth, and never be able to recover the right road again. That as the House had yet no materials before them, by which they might judge of the proceedings of the colonies, he strongly objected to their passing that heavy censure upon them, which was conveyed in the word *unwarrantable*, contained in the proposed address. That it was passing a sentence without hearing the cause, or being acquainted with facts, and might expose the proceedings of the House to be received abroad with indifference or disrespect. That if *unwarrantable* meant anything, it must mean illegal; and how could their lordships decide that proceedings, which had not been stated to them in any shape, were contrary to law? That what he had heard of the combinations in America, and of their success in supplying themselves with goods of their own manufacture, had indeed alarmed him much for the commercial interests of the mother country; but he could not conceive in what sense they could be called illegal, much less how a declaration of that House could remove the evil. That they were *dangerous* indeed, and he greatly wished to have that word substituted for unwarrantable. That we must look for other remedies. That the discontent of two millions of people deserved consideration; and the foundation of it ought to be removed. That this was the true way of putting a stop to combinations and manufactures in that country; but that he reserved himself to give his opinion more particularly upon this subject, when authentic information of the state of America should be laid before the House; declaring only for the present that we should be cautious how we invaded the liberties of any part of our fellow-subjects, however remote in situation, or unable to make resistance. That liberty was a plant that deserved to be cherished; that he loved the tree, and wished well to every branch of it. That, like the vine in the Scripture, it had spread from east to west, had embraced whole nations with its branches, and sheltered them under its leaves. That the Americans had purchased their liberty at a dear rate, since they had quitted their native country, and gone in search of freedom to a desert

"That the parts of the address which he had already touched upon, however important in themselves, bore no comparison with that which still remained. That indeed there never was a time, at which the unanimity recommended to them by the King was more necessary than at the present; but he differed very much from the noble duke, with respect to the propriety or utility of those general assurances contained in the latter part of the address. That the most perfect harmony in that House would have but little effect towards quieting the minds of the people, and removing their discontent. That it was the duty of that House to inquire into the causes of the notorious dissatisfaction expressed by the whole English nation;* to state those causes to their sovereign, and then to give him their best advice in what manner he ought to act. That the privileges of the House of Peers, however transcendent, however appropriated to them, stood in fact upon the broad bottom of the people. They were no longer in the condition of the barons, their ancestors, who had separate interests and separate strength to support them. The rights of the greatest and of the meanest subjects now stood upon the same foundation: the security of law, common to all. It was therefore their highest interest, as well as their duty, to watch over and guard the people; for when the people had lost their rights, those of the peerage would soon become insignificant. To argue from experience, he begged leave to refer their lordships to a most important passage in history, described by a man of great abilities, Mr Robertson. This writer, in his life of Charles the Fifth (a great, ambitious, wicked man), informs us, that the peers of Castile were so far cajoled and seduced by him, as to join him in overturning that part of the Cortes which represented the people. They were weak enough to adopt, and base enough to be flattered with, an expectation, that by assisting their master in this iniquitous purpose, they should increase their own strength and importance. What was the consequence? They exchanged the constitutional authority of peers, for the titular vanity of grandees. They were no longer a part of a parliament, for *that* they had destroyed; and when they pretended to have an opinion as grandees, he told them he did not understand it; and, naturally enough, when they had surrendered their authority, treated their advice with contempt. The consequences did not stop here. He made use of the people whom he had enslaved to enslave others, and employed the strength of the Castilians to destroy the rights of their free neighbours of Aragon.

"My lords, let this example be a lesson to us all. Let us be cautious how we admit an idea that our rights stand on a footing different from those of the people. Let us be cautious how we invade the liberties of our fellow-subjects, however mean, however remote; for be assured, my lords, that in whatever part of the empire you suffer slavery to be established, whether it be in America or in Ireland, or here at home, you will find it a disease which

* At the expulsion of Mr Wilkes, by the House of Commons, after being returned member for Middlesex by a large majority.

spreads by contact, and soon reaches from the extremities to the heart. The man who has lost his own freedom, becomes from that moment an instrument in the hands of an ambitious prince, to destroy the freedom of others. These reflections, my lords, are but too applicable to our present situation. The liberty of the subjects is invaded, not only in provinces, but here at home. The English people are loud in their complaints: they proclaim with one voice the injuries they have received; they demand redress, and depend upon it, my lords, that one way or other, they *will have* redress. They will never return to a state of tranquillity until they *are* redressed: *nor ought they;* for in my judgment, my lords, and I speak it boldly, it were better for them to perish in a glorious contention for their rights, than to purchase a slavish tranquillity at the expense of a single iota of the constitution. Let me entreat your lordships, then, in the name of all the duties you owe to your sovereign, to your country, and to yourselves, to perform that office to which you are called by the constitution; by informing his Majesty truly of the condition of his subjects, and of the real causes of their dissatisfaction. I have considered the matter with most serious attention; and as I have not in my own breast the smallest doubt that the present universal discontent of the nation arises from the proceedings of the House of Commons upon the expulsion of Mr Wilkes, I think that we ought, in our address, to state that matter to the King. I have drawn up an amendment to the address, which I beg leave to submit to the consideration of the House."

[His Lordship then read his amendment, which was as follows:—]

"'And for these great and essential purposes, we will, with all convenient speed, take into our most serious consideration the causes of the discontents which prevail in so many parts of your Majesty's dominions, and particularly the late proceedings of the House of Commons, touching the incapacity of John Wilkes, Esq. (expelled by that House) to be elected a member to serve in this present Parliament, thereby refusing (by a resolution of one branch of the legislature only) to the subject his common right, and depriving the electors of Middlesex of their free choice of a representative.'

"The cautious and guarded terms in which this amendment is drawn up, will, I hope, reconcile every noble lord who hears me to my opinion; and as I think no man can dispute the truth of the facts, so I am persuaded no man can dispute the propriety and necessity of laying those facts before his Majesty."

[Lord Mansfield, in opposition to the amendment, expressed his strong disapprobation of general declarations of the law being made by either House of Parliament, as they could not be recognised as law by the judges; but he drew the distinction between such declarations and a particular decision, on a case coming regularly before either House and properly the subject of their jurisdiction; and contended, that, in the case of Mr Wilkes, a question regarding the privileges of their own House came properly and

judicially before the Commons; and that, therefore, it would be exceedingly improper for the House of Lords to enter upon an inquiry into the proceedings of the Lower House with respect to their own members, and that such an interference would inevitably led to a rupture between the two Houses.]

To this speech of Lord Mansfield, Lord Chatham replied as follows:—

"My Lords,

"There is one plain maxim, to which I have invariably adhered through life:—That in every question, in which my liberty or my property were concerned, I should consult and be determined by the dictates of common sense. I confess, my lords, that I am apt to distrust the refinements of learning, because I have seen the ablest and the most learned men equally liable to deceive themselves, and to mislead others. The condition of human nature would be lamentable indeed, if nothing less than the greatest learning and talents, which fall to the share of so small a number of men, were sufficient to direct our judgment and our conduct. But Providence has taken better care of our happiness, and given us, in the simplicity of common sense, a rule for our direction, by which we shall never be misled. I confess, my lords, I had no other guide in drawing up the amendment which I submitted to your consideration; and before I heard the opinion of the noble lord who spoke last, I did not conceive that it was even within the limits of possibility for the greatest human genius, the most subtile understanding, or the acutest wit, so strangely to misrepresent my meaning, and to give it an interpretation so entirely foreign from what I intended to express, and from that sense which the very terms of the amendment plainly and distinctly carry with them. If there be the smallest foundation for the censure thrown upon me by that noble lord—if, either expressly, or by the most distant implication, I have said or insinuated any part of what the noble lord has charged me with, discard my opinions for ever, discard the motion with contempt.

"My lords, I must beg the indulgence of the House. Neither will my health permit me, nor do I pretend to be qualified to follow that learned lord minutely through the whole of his argument. No man is better acquainted with his abilities and learning, nor has a greater respect for them, than I have. I have had the pleasure of sitting with him in the other House,* and always listened to him with attention. I have not now lost a word of what he said, NOR DID I EVER. Upon the present question, I meet him without fear. The evidence which truth carries with it, is superior to all argument; it neither wants the support, nor dreads the opposition, of the greatest abilities. If there be a single word in the amendment to justify the interpretation which the noble lord has been pleased to give it, I am ready to renounce the whole: let it be read, my lords; let it speak for itself." [The amendment was then read.]—"In what instance does it interfere with

* Lord Mansfield sat in the House of Commons as Mr Murray. He was created Baron Mansfield, in 1756. In the Lower House, he was always opposed by Mr Pitt.

the privileges of the House of Commons? In what respect does it question their jurisdiction, or suppose an authority in this House to arraign the justice of their sentence? I am sure that every lord who hears me, will bear me witness, that I said not one word touching the merits of the Middlesex election; so far from conveying any opinion upon that matter in the amendment, I did not even in discourse deliver my own sentiments upon it. I did not say that the House of Commons had done either right or wrong; but, when his Majesty was pleased to recommend it to us to cultivate unanimity amongst ourselves, I thought it the duty of this House, as the great hereditary council of the Crown, to state to his Majesty the distracted condition of his dominions, together with the events which had destroyed unanimity among his subjects. But, my lords, I stated those events merely as facts, without the smallest addition either of censure or of opinion. They are facts, my lords, which I am not only convinced are true, but which I know are indisputably true. For example, my lords: will any man deny that discontents prevail in many parts of his Majesty's dominions? or that those discontents arise from the proceedings of the House of Commons touching the declared incapacity of Mr Wilkes? 'Tis impossible: no man can deny a truth so notorious. Or will any man deny that those proceedings refused, by a resolution of one branch of the legislature only, to the subject his common right? Is it not indisputably true, my lords, that Mr Wilkes *had* a common right, and that he lost it no other way but by a resolution of the House of Commons? My lords, I have been tender of misrepresenting the House of Commons: I have consulted their journals, and have taken the very words of their own resolution. Do they not tell us, in so many words, that Mr Wilkes, having been expelled, was thereby rendered incapable of serving in that Parliament? And is it not their resolution alone, which refuses to the subject his common right? The amendment says further, that the electors of Middlesex are deprived of their free choice of a representative. Is this a false fact, my lords? or have I given an unfair representation of it? Will any man presume to affirm that Colonel Luttrell is the free choice of the electors of Middlesex?* We all know the contrary; we all know that Mr Wilkes (whom I mention without either praise or censure) was the favourite of the county, and chosen by a very great and acknowledged majority, to represent them in Parliament. If the noble lord dislikes the manner in which these facts are stated, I shall think myself happy in being advised by him to how to alter it. I am very little anxious about terms, provided the substances be preserved; and these are facts, my lords, which I am sure will always retain their weight and importance, in whatever form of language they are described.

"Now, my lords, since I have been forced to enter into the explanation of an amendment, in which nothing less than the genius of penetration could have discovered an obscurity, and having, as I hope, redeemed myself

* The votes polled were 1143 for Wilkes, and 296 for Luttrell; but the House, by a vote, rejected Wilkes, and declared Luttrell elected.

in the opinion of the House, having redeemed my motion from the severe representation given of it by the noble lord, I must a little longer entreat your lordships' indulgence. The constitution of this country has been openly invaded in fact; and I have heard, with horror and astonishment, that very invasion defended upon principle. What is this mysterious power, undefined by law, unknown to the subject, which we must not approach without awe, nor speak of without reverence, which no man may question and to which all men must submit? My lords, I thought the slavish doctrine of passive obedience had long since been exploded: and, when our kings were obliged to confess that their title to the crown, and the rule of their government, had no other foundation than the known laws of the land, I never expected to hear a divine right, or a divine infallibility, attributed to any other branch of the legislature. My lords, I beg to be understood; no man respects the House of Commons more than I do, or would contend more strenuously than I would, to preserve them their just and legal authority. Within the bounds prescribed by the constitution, that authority is necessary to the well-being of the people: beyond that line every exertion of power is arbitrary, is illegal; it threatens tyranny to the people, and destruction to the state. Power without right is the most odious and detestable object that can be offered to the human imagination: it is not only pernicious to those who are subject to it, but tends to its own destruction. It is what my noble friend (Lord Lyttelton) has truly described it, *Res detestabilis et caduca*. My lords, I acknowledge the just power, and reverence the constitution of the House of Commons. It is for their own sakes that I would prevent their assuming a power which the constitution has denied them, lest, by grasping at an authority they have no right to, they should forfeit that which they legally possess. My lords, I affirm that they have betrayed their constituents, and violated the constitution. Under pretence of declaring the law, they have *made* a law, and united in the same persons the office of legislator and of judge.

"I shall endeavour to adhere strictly to the noble lord's doctrine, which is indeed impossible to mistake, so far as my memory will permit me to preserve his expressions. He seems fond of the word jurisdiction; and I confess, with the force and effect which he has given it, it is a word of copious meaning and wonderful extent. If his lordship's doctrine be well founded, we must renounce all those political maxims by which our understandings have hitherto been directed, and even the first elements of learning taught us in our schools when we were school-boys. My lords, we knew that jurisdiction was nothing more than *jus dicere;* we knew that *legem facere* and *legem dicere* were powers clearly distinguished from each other in the nature of things, and wisely separated by the wisdom of the English constitution; but now, it seems, we must adopt a new system of thinking. The House of Commons, we are told, has a supreme jurisdiction; that there is no appeal from their sentence; and that wherever they are competent judges, their decision must be received and submitted to, as, *ipso facto*, the law of

the land. My lords, I am a plain man, and have been brought up in a religious reverence for the original simplicity of the laws of England. By what sophistry they have been perverted, by what artifices they have been involved in obscurity, is not for me to explain; the principles, however, of the English laws are still sufficiently clear: they are founded in reason, and are the master-piece of the human understanding; but it is in the text that I would look for a direction to my judgment, not in the commentaries of modern professors. The noble lord assures us, that he knows not in what code the law of Parliament is to be found; that the House of Commons, when they act as judges, have no law to direct them but their own wisdom; that their decision is law; and if they determine wrong, the subject has no appeal but to heaven. What then, my lords, are all the generous efforts of our ancestors—are all those glorious contentions, by which they meant to secure to themselves, and to transmit to their posterity, a known law, a certain rule of living—reduced to this conclusion, that instead of the arbitrary power of a king, we must submit to the arbitrary power of a House of Commons? If this be true, what benefit do we derive from the exchange? Tyranny, my lords, is detestable in every shape; but in none so formidable as when it is assumed and exercised by a number of tyrants. But, my lords, this is not the fact, this is not the constitution; we have a law of Parliament; we *have* a code in which every honest man may find it. We have Magna Charta, we have the Statute Book, and the Bill of Rights.

"If a case should arise unknown to these great authorities, we have still that plain English reason left, which is the foundation of all our English jurisprudence. That reason tells us, that every judicial court and every political society must be vested with those powers and privileges which are necessary for performing the office to which they are appointed. It tells us also, that no court of justice can have a power inconsistent with, or paramount to, the known laws of the land; that the people, when they choose their representatives, never mean to convey to them a power of invading the rights or trampling upon the liberties of those whom they represent. What security would they have for their rights, if once they admitted that a court of judicature might determine every question that came before it, not by any known, positive law, but by the vague, indeterminate, arbitrary rule, of what the noble lord is pleased to call *the wisdom of the court?* With respect to the decision of the courts of justice, I am far from denying them their due weight and authority; yet, placing them in a most respectablevi ew, I still consider them, not as law, but as an evidence of the law; and before they can arrive even at that degree of authority, it must appear that they are founded in, and confirmed by, reason; that they are supported by precedents taken from good and moderate times; that they do not contradict any positive law; that they are submitted to without reluctance by the people: that they are unquestioned by the legislature (which is equivalent to a tacit confirmation); and, what, in my judgment, is by far the most important, that they do not violate the spirit of the constitution. My lords, this is not a

vague or loose expression; we all know what the constitution is; we all know, that the first principle of it is, that the subject shall not be governed by the *arbitrium* of any one man, or body of men (less than the whole legislature), but by certain laws, to which he has virtually given his consent, which are open to him to examine, and not beyond his ability to understand. Now, my lords, I affirm, and am ready to maintain, that the late decision of the House of Commons upon the Middlesex election, is destitute of every one of those properties and conditions which I hold to be essential to the legality of such a decision. It is not founded in reason; for it carries with it a contradiction, that the representative should perform the office of the constituent body. It is not supported by a single precedent: for the case of Sir R. Walpole is but a half precedent, and even that half is imperfect. Incapacity was indeed declared, but his crimes are stated as the ground of the resolution, and his opponent was declared to be not duly elected, even after his incapacity was established. It contradicts Magna Charta and the Bill of Rights, by which it is provided, that no subject shall be deprived of his freehold, unless by the judgment of his peers, or the law of the land; and that elections of members to serve in Parliament shall be free; and so far is this decision from being submitted to by the people, that they have taken the strongest measures, and adopted the most positive language, to express their discontent. Whether it will be questioned by the legislature, will depend upon your lordships' resolution; but that it violates the spirit of the constitution will, I think, be disputed by no man who has heard this day's debate, and who wishes well to the freedom of his country; yet, if we are to believe the noble lord, this great grievance, this manifest violation of the first principles of the constitution, will not admit of a remedy; is not even capable of redress, unless we appeal at once to Heaven. My lords, I have better hopes of the constitution, and a firmer confidence in the wisdom and constitutional authority of this House. It is to *your* ancestors, my lords, —it is to the English barons that we are indebted for the laws and constitution we possess. Their virtues were rude and uncultivated, but they were great and sincere. Their understandings were as little polished as their manners, but they had hearts to distinguish right from wrong; they had heads to distinguish truth from falsehood; they understood the rights of humanity, and they had spirit to maintain them.

"My lords, I think that history has not done justice to their conduct, when they obtained from their sovereign that great acknowledgment of national rights contained in Magna Charta; they did not confine it to themselves alone, but delivered it as a common blessing to the whole people. They did not say, These are the rights of the great barons, or these are the rights of the great prelates;—No, my lords; they said, in the simple Latin of the times, *nullus liber homo*, and provided as carefully for the meanest subject as for the greatest. These are uncouth words, and sound but poorly in the ears of scholars; neither are they addressed to the criticism of scholars, but the hearts of free men. These three words, *nullus liber homo*,

have a meaning which interests us all; they deserve to be remembered—they deserve to be inculcated in our minds—they are worth all the classics. Let us not, then, degenerate from the glorious example of our ancestors. Those iron barons (for so I may call them when compared with the silken barons of modern days) were the guardians of the people; yet *their* virtues, my lords, were never engaged in a question of such importance as the present. A breach has been made in the constitution—the battlements are dismantled—the citadel is open to the first invader—the walls totter—the constitution is not tenable. What remains, then, but for us to stand foremost in the breach, to repair it, or perish in it?

"Great pains have been taken to alarm us with the dreadful consequences of a difference between the two Houses of Parliament—that the House of Commons will resent our presuming to take notice of their proceedings; that they will resent our daring to advise the Crown, and never forgive us for attempting to save the state. My lords, I am sensible of the importance and difficulty of this great crisis: at a moment such as this, we are called upon to do our duty, without dreading the resentment of any man. But if apprehensions of this kind are to affect us, let us consider which we ought to respect most—the representative, or the collective body of the people. My lords, five hundred gentlemen are not ten millions; and if we *must* have a contention, let us take care to have the English nation on our side. If this question be given up, the freeholders of England are reduced to a condition baser than the peasantry of Poland. If they desert their own cause, they deserve to be slaves!—My lords, this is not merely the cold opinion of my understanding, but the glowing expression of what I feel. It is my heart that speaks: I know I speak warmly, my lords; but this warmth shall neither betray my argument nor my temper. The kingdom is in a flame. As mediators between the King and people, it is our duty to represent to him the true condition and temper of his subjects. It is a duty which no particular respects should hinder us from performing; and whenever his Majesty shall demand our advice, it will then be our duty to inquire more minutely into the causes of the present discontents. Whenever that inquiry shall come on, I pledge myself to the House to prove, that since the first institution of the House of Commons, not a single precedent can be produced to justify their late proceedings. My noble and learned friend (the Lord Chancellor*) has also pledged himself to the House that he will support that assertion.

"My lords, the character and circumstances of Mr Wilkes have been very improperly introduced into this question, not only here, but in that court of judicature where his cause was tried: I mean the House of Commons. With one party he was a patriot of the first magnitude; with the other the vilest incendiary. For my own part, I consider him merely and indifferently as an English subject, possessed of certain rights which the laws have given

* Lord Camden.

him, and which the laws alone can take from him. I am neither moved by his private vices nor by his public merits. In *his* person, though he were the *worst* of men, I contend for the safety and security of the best; and, God forbid, my lords, that there should be a power in this country of measuring the civil rights of the subject by his moral character or by any other rule but the fixed laws of the land! I believe, my lords, *I* shall not be suspected of any personal partiality to this unhappy man: I am not very conversant in pamphlets or newspapers; but from what I have heard, and from the little I have read, I may venture to affirm that I have had my share in the compliments which have come from that quarter; and as for motives of ambition (for I must take to myself a part of the noble duke's insinuation), I believe, my lords, there have been times in which I have had the honour of standing in such favour in the closet, that there must have been something extravagantly unreasonable in my wishes if they might not *all* have been gratified; after neglecting those opportunities, I am now suspected of coming forward, in the decline of life, in the anxious pursuit of wealth and power, which it is impossible for me to enjoy. Be it so; there is one ambition at least which I ever will acknowledge, which I will not renounce but with my life; it is the ambition of delivering to my posterity those rights of freedom which I have received from my ancestors. I am not now pleading the cause of an individual, but of every freeholder in England. In what manner this House may constitutionally interpose in their defence, and what kind of redress this case will require and admit of, is not at present the subject of our consideration. The amendment, if agreed to, will naturally lead us to such an inquiry. That inquiry may, perhaps, point out the necessity of an act of the legislature, or it may lead us, perhaps, to desire a conference with the other House; which one noble lord affirms is the only parliamentary way of proceeding; and which another noble lord assures us the House of Commons would either not come to, or would break off with indignation. Leaving their lordships to reconcile that matter between themselves, I shall only say, that before we have inquired, we cannot be provided with materials, consequently we are not at present prepared for a conference.

"It is impossible, my lords, that the inquiry I speak of may lead us to advise his Majesty to dissolve the present parliament; nor have I any doubt of our right to give that advice, if we should think it necessary. His Majesty will then determine whether he will yield to the united petitions of the people of England, or maintain the House of Commons in the exercise of a legislative power which heretofore abolished the House of Lords, and overturned the monarchy. I willingly acquit the present House of Commons of having actually formed so detestable a design: but they cannot themselves foresee to what excesses they may be carried hereafter; and for my own part, I should be sorry to trust to their future moderation. Unlimited power is apt to corrupt the minds of those who possess it; and this I know, my lords, that where law ends, tyranny begins!"

The amendment was negatived.

The following speech was made on the 22d of January, 1770, in support of a motion, by the Marquis of Rockingham, for appointing a day to take into consideration the state of the nation.

The Marquis of Rockingham, in his speech on making this motion, dwelt on the alarming state of the country, and charged ministers with having adopted a maxim which must prove fatal to the liberties of the country, viz., "That the prerogative alone was sufficient to support the Government, to whatever hands the administration should be committed."

The Duke of Grafton addressed the House after the Marquis, in exculpation of himself and his colleagues (then in office), and stated that it was not his intention to oppose the motion.

The Earl of Chatham followed thus :—

"My Lords,

"I meant to have risen immediately to second the motion made by the noble lord. The charge, which the noble duke seemed to think affected himself particularly, did undoubtedly demand an early answer ; it was proper he should speak before me, and I am as ready as any man to applaud the decency and propriety with which he has expressed himself.

"I entirely agree with the noble lord, both in the necessity of your lordships' concurring with the motion, and in the principles and arguments by which he has very judiciously supported it. I see clearly, that the complexion of our Government has been materially altered ; and I can trace the origin of the alteration up to a period which ought to have been an era of happiness and prosperity to this country.

"My lords, I shall give you my reasons for concurring with the motion, not methodically, but as they occur to my mind. I may wander, perhaps, from the exact parliamentary debate; but I hope I shall say nothing but what may deserve your attention, and what, if not strictly proper at present, would be fit to be said, when the state of the nation shall come to be considered. My uncertain state of health must plead my excuse. I am now in some pain, and very probably may not be able to attend my duty, when I desire it most, in this House. I thank God, my lords, for having thus long preserved so inconsiderable a being as I am, to take a part upon this great occasion, and to contribute my endeavours, such as they are, to restore, to save, to confirm the constitution.

"My lords, I need not look abroad for grievances. The grand capital mischief is fixed at home. It corrupts the very foundation of our political existence, and preys upon the vitals of the state. The constitution has been grossly violated. THE CONSTITUTION AT THIS MOMENT STANDS VIOLATED. Until that wound be healed, until the grievance be redressed, it is in vain to recommend union to parliament; in vain to promote concord among the people. If we mean seriously to unite the nation within itself, we must convince them that their complaints are regarded, that their inquiries shall be redressed. On *that* foundation I would take the lead in recommending peace and harmony to the people. On any other, I would never wish to see

them united again. If the breach in the constitution be effectually repaired, the people will of themselves return to a state of tranquillity; if not, MAY DISCORD PREVAIL FOR EVER! I know to what point this doctrine and this language will appear directed. But I feel the principles of an Englishman, and I utter them without apprehension or reserve. The crisis is indeed alarming:—so much the more does it require a prudent relaxation on the part of government. If the King's servants will not permit a constitutional question to be decided on, according to the forms and on the principles of the constitution, it must then be decided in some other manner; and rather than it should be given up, rather than the nation should surrender their birth-right to a despotic minister, I hope, my lords, old as I am, *I shall see the question brought to issue, and fairly tried between the people and the government.* My lords, this is not the language of faction; let it be tried by that criterion by which alone we can distinguish what is factious from what is not—by the principles of the English constitution. I have been bred up in these principles; and know, that when the liberty of the subject is invaded, and all redress denied him, resistance is justified. If I had a doubt upon the matter, I should follow the example set us by the most reverend bench, with whom I believe it is a maxim, when any doubt in point of faith arises, or any question of controversy is started, to appeal at once to the greatest source and evidence of our religion—I mean the Holy Bible: the constitution has its political Bible, by which, if it be fairly consulted, every political question may, and ought to be determined. Magna Charta, the Petition of Right, and the Bill of Rights, form that code which I call *the Bible of the English constitution.* Had some of his Majesty's unhappy predecessors trusted less to the comments of their ministers, had they been better read in the text itself, the glorious revolution would have remained only possible in theory, and would not now have existed upon record a formidable example to their successors.

"My lords, I cannot agree with the noble duke, that nothing less than an immediate attack upon the honour or interest of this nation, can authorise us to interpose in defence of weaker states, and in stopping the enterprises of an ambitious neighbour. Whenever that narrow, selfish policy, has prevailed in our councils, we have constantly experienced the fatal effects of it. By suffering our natural enemies to oppress the powers less able than we are to make a resistance, we have permitted them to increase their strength; we have lost the most favourable opportunities of opposing them with success; and found ourselves at last obliged to run every hazard, in making that cause our own, in which we were not wise enough to take part while the expense and danger might have been supported by others. With respect to Corsica I shall only say, that France has obtained a more useful and important acquisition in one *pacific* campaign, than in any of her *belligerent* campaigns;* at

* Louis XV., in consequence, as was pretended, of the Jesuits being allowed to take refuge in Corsica in 1767, purchased the island from the Genoese, and after two years' contest, succeeded in subduing it. The French minister, Choiseul, induced the British government to render no opposition.

least while I had the honour of administering the war against her. The word may, perhaps, be thought singular: I mean only while I was the minister, chiefly entrusted with the conduct of the war. I remember, my lords, the time when Lorrain was united to the crown of France;* that too was, in some measure, a pacific conquest; and there were people who talked of it as the noble duke now speaks of Corsica. France was permitted to take and keep possession of a noble province; and, according to his Grace's ideas, we did right in not opposing it. The effect of these acquisitions is, I confess, not immediate; but they unite with the main body by degrees, and, in time, make a part of the national strength. I fear, my lords, it is too much the temper of this country to be insensible of the approach of danger, until it comes with accumulated terror upon us.

"My lords, the condition of his Majesty's affairs in Ireland, and the state of that kingdom within itself, will undoubtedly make a very material part of your lordships' inquiry. I am not sufficiently informed to enter into the subject so fully as I could wish; but by what appears to the public, and from my own observation, I confess I cannot give the ministry much credit for the spirit or prudence of their conduct. I see, that even where their measures are well chosen, they are incapable of carrying them through without some unhappy mixture of weakness or imprudence. They are incapable of doing entirely right. My lords, I do, from my conscience, and from the best weighed principles of my understanding, applaud the augmentation of the army. As a military plan, I believe, it has been judiciously arranged. In a political view, I am convinced it was for the welfare, for the safety of the whole empire. But, my lords, with all these advantages, with all these recommendations, if I had the honour of advising his Majesty, I would never have consented to his accepting the augmentation, with that absurd, dishonourable condition, which the ministry have submitted to annex to it.† My lords, I revere the just prerogative of the crown, and would contend for it as warmly as for the rights of the people. They are linked together, and naturally support each other. I would not touch a feather of the prerogative. The expression, perhaps, is too light; but, since I have made use of it, let me add, that the entire command and power of directing the local disposition of the army is the royal prerogative, as the master-feather in the eagle's wing; and if I were permitted to carry the allusion a little farther, I would say, they have disarmed the imperial bird, the '*Ministrum fulminis alitem.*' The army is the thunder of the crown. The ministry have tied up the hand which should direct the bolt.

* In the year 1735, by an arrangement between the Emperor of Austria and the French.

† King George III. had, by a message through the Lord Lieutenant, recommended the Irish House of Commons to augment the Irish army, and assured them expressly that on the augmentation being made, not less than 12,000 men should at all times "except in cases of invasion or rebellion in Great Britain," be stationed in Ireland.

"My lords, I remember that Minorca was lost for want of four battalions.* They could not be spared from hence; and there was a delicacy about taking them from Ireland. I was one of those who promoted an inquiry into that matter in the other House; and I was convinced we had not regular troops sufficient for the necessary service of the nation. Since the moment the plan of augmentation was first talked of, I have constantly and warmly supported it among my friends: I have recommended it to several members of the Irish House of Commons, and exhorted them to support it with their utmost interest in Parliament. I did not foresee, nor could I conceive it possible, the ministry would accept of it, with a condition that makes the plan itself ineffectual, and, as far as it operates, defeats every useful purpose of maintaining a standing military force. His Majesty is now so confined, by his promise, that he must leave twelve thousand men locked up in Ireland, let the situation of his affairs abroad, or the approach of danger to this country, be ever so alarming, unless there be an actual rebellion, or invasion, in Great Britain. Even in the two cases excepted by the King's promise, the mischief must have already begun to operate, must have already taken effect, before his Majesty can be authorised to send for the assistance of his Irish army. He has not left himself the power of taking any preventive measures, let his intelligence be ever so certain, let his apprehensions of invasion or rebellion be ever so well-founded; unless the traitor be actually in arms—unless the enemy be in the heart of your country, he cannot move a single man from Ireland.

"I feel myself compelled, my lords, to return to that subject which occupies and interests me most—I mean the internal disorder of the constitution, and the remedy it demands. But first, I would observe, there is one point upon which I think the noble duke has not explained himself. I do not mean to catch at words, but, if possible, to possess the sense of what I hear. I would treat every man with candour, and should expect the same candour in return. For the noble duke, in particular, I have every personal respect and regard. I never desire to understand him, but as he wishes to be understood. His Grace, I think, has laid much stress upon the diligence of the several public offices, and the assistance given them by the administration, in preparing a statement of the expenses of his Majesty's civil government, for the information of parliament, and for the satisfaction of the public. He has given us a number of plausible reasons for their not having yet been able to finish the account; but, as far as I am able to recollect, he has not yet given us the smallest reason to hope that it ever will be finished, or that it ever will be laid before Parliament.

"My lords, I am not unpractised in business, and if, with all that apparent diligence, and all that assistance, which the noble duke speaks of, the accounts in question have not yet been made up, I am convinced there must be a defect in some of the public offices, which ought to be strictly inquired

* In 1787.

into, and severely punished. But, my lords, the waste of the public money is not of itself so important as the pernicious purpose to which we have reason to suspect that money has been applied. For some years past, there has been an influx of wealth into this country, which has been attended with many fatal consequences, because it has not been the regular, natural produce of labour and industry. The riches of Asia have been poured in upon us, and have brought with them not only Asiatic luxury, but, I fear, Asiatic principles of government. Without connexions, without any natural interest in the soil, the importers of foreign gold have forced their way into Parliament, by such a torrent of private corruption, as no private hereditary fortune could resist. My lords, not saying but what is within the knowledge of us all, the corruption of the people is the great original cause of the discontents of the people themselves, of the enterprise of the Crown, and the notorious decay of the internal vigour of the constitution. For this great evil some immediate remedy must be provided; and I confess, my lords, I did hope that his Majesty's servants would not have suffered so many years of peace to elapse, without paying some attention to an object which ought to engage and interest us all. I flattered myself I should see some barriers thrown up in defence of the constitution—some impediment formed to stop the rapid progress of corruption. I doubt not we all agree that something must be done. I shall offer my thoughts, such as they are, to the consideration of the House; and I wish that every noble lord who hears me would be as ready as I am to contribute his opinion to this important service. I will not call my own sentiments crude and indigested; it would be unfit for me to offer anything to your lordships which I had not well considered; and this subject, I own, has not long occupied my thoughts. I will now give them to your lordships without reserve.

"Whoever understands the theory of the English constitution, and will compare it with the fact, must see at once how widely they differ. We must reconcile them to each other, if we wish to save the liberties of this country; we must reduce our political practice, as nearly as possible, to our principles. The constitution intended that there should be a permanent relation between the constituent and representative body of the people. Will any man affirm, that, as the House of Commons is now formed, that relation is in any degree preserved? My lords, it is not preserved; it is destroyed. Let us be cautious, however, how we have recourse to violent expedients.

"The boroughs of this country have properly enough been called the rotten parts of the constitution. I have lived in Cornwall, and without entering into an invidious particularity, have seen enough to justify the appellation. But in my judgment, my lords, these boroughs, corrupt as they are, must be considered as the natural infirmity of the constitution. Like the infirmities of the body, we must bear them with patience, and submit to carry them about with us. The limb is mortified, but the amputation might be death.

"Let us try, my lords, whether some gentler remedies may not be discovered. Since we cannot cure the disorder, let us endeavour to infuse such

a portion of new health into the constitution, as may enable it to support its most inveterate diseases.

"The representation of the counties is, I think, still preserved pure and uncorrupted. That of the greatest cities is upon a footing equally respectable; and there are many of the larger trading towns, which still preserve their independence. The infusion of health which I now allude to, would be to permit every county to elect one member more, in addition to their present representation. The knights of the shires approach nearest to the constitutional representation of the country, because they represent the soil. It is not in the little dependent boroughs, it is in the great cities and counties that the strength and vigour of the constitution resides, and by them alone, if an unhappy question should ever rise, will the constitution be honestly and firmly defended. It would increase that strength, because I think it is the only security we have against the profligacy of the times, the corruption of the people, and the ambition of the Crown.

"I think I have weighed every possible objection that can be raised against a plan of this nature; and I confess I see but one, which, to me, carries any appearances of solidity. It may be said, perhaps, that when the act passed for uniting the two kingdoms, the number of persons who were to represent the whole nation in Parliament was proportioned and fixed on for ever*—that this limitation is a fundamental article, and cannot be altered without hazarding a dissolution of the union.

"My lords, no man who hears me can have a greater reverence for that wise and important act, than I have. I revere the memory of that great prince who first formed the plan, and of those illustrious patriots who carried it into execution. As a contract, every article of it should be inviolable; as the common basis of the strength and happiness of two nations, every article of it should be sacred. I hope I cannot be suspected of conceiving a thought so detestable, as to propose an advantage to one of the contracting parties at the expense of the other. No, my lords, I mean that the benefit should be universal, and the consent to receive it unanimous. Nothing less than a most urgent and important occasion should persuade me to vary even from the letter of the act; but there is no occasion, however urgent, however important, that should ever induce me to depart from the spirit of it. Let that spirit be religiously preserved. Let us follow the principle upon which the representation of the two countries was proportioned at the union: and when we increase the number of representatives for the English counties, let the shires of Scotland be allowed an equal privilege. On these terms, and while the proportion limited by the union is preserved between the two nations, I apprehend that no man, who is a friend to either, will object to an alteration so necessary for the security of both. I do not speak of the au-

* By the terms of the union of England and Scotland in 1706, it was provided, "That the whole people of Great Britain shall be represented by one Parliament, in which sixteen Peers and forty-five Commoners chosen for Scotland shall sit and vote."

thority of the legislature to carry such a measure into effect, because I imagine no man will dispute it. But I would not wish the legislature to interpose by an exertion of its power alone, without the cheerful concurrence of all parties. My object is the happiness and security of the two nations, and I would not wish to obtain it without their mutual consent.

"My lords, besides my warm approbation of the motion made by the noble lord, I have a natural and personal pleasure in rising up to second it. I consider my seconding his lordship's motion, and I would wish it to be considered by others, as a public demonstration of that cordial union, which, I am happy to affirm, subsists between us—of my attachment to those principles which he has so well defended, and of my respect for his person. There has been a time, my lords, when those who wished well to neither of us, who wished to see us separated for ever, found a sufficient gratification for their malignity against us both. But that time is happily at an end. The friends of this country will, I doubt not, hear with pleasure, that the noble lord and his friends are now united with me and mine, upon a principle which, I trust, will make our union indissoluble. It is not to possess, or divide, the emoluments of government; but, if possible, to save the state. Upon this ground we met—upon this ground we stand, firm and inseparable. No ministerial artifices, no private offers, no secret seduction, can divide us. United as we are, we can set the profoundest policy of the present ministry, their grand, their only arcanum of government, their *divide et impera*, at defiance.

"I hope an early day will be agreed to for considering the state of the nation. My infirmities must fall heavily upon me, indeed, if I do not attend my duty that day. When I consider my age, and unhappy state of health, I feel how little I am personally interested in the event of any political question. But I look forward to others, and am determined, as far as my poor ability extends, to convey to those who come after me the blessings which I cannot long hope to enjoy myself."

The motion was agreed to; the 24th of January being first fixed for the discussion, but altered to the 2nd of February.

On the 29th of January the Duke of Grafton resigned, and was succeeded by Lord North.

On the 2nd of February, 1770, the day fixed for the lords' committee, to take into consideration the state of the nation, the Marquis of Rockingham moved, "that the House of Commons, in the exercise of its judicature in matters of election, is bound to judge according to the law of the land, and the known and established law and custom of parliament, which is part thereof." The Earl of Sandwich having spoken in opposition, Lord Chatham replied to him thus:—

"My Lords,

"The noble lord has been very adroit in referring to the journals, and in collecting every circumstance that might assist his argument. Though my

long and almost continued infirmities have denied me the hour of ease to obtain these benefits, yet, without the assistance of the journals, or other collaterals, I can reply to both the precedents which his lordship has produced.

"I will readily allow the facts to be as the noble earl has stated them, viz., that Lionel, Earl of Middlesex,* as well as Lord Bacon,† were both, for certain crimes and misdemeanours, expelled this House, and incapacitated from ever sitting here; without occasioning any interference from the other branches of the legislature.

"Neither of these cases bear any analogy to the present case. They affected only themselves. The rights of no constituent body were affected by them. It is not the *person* of Mr Wilkes that is complained of; as an individual, he is personally out of the dispute. The cause of complaint, the great cause, is, that the inherent rights and franchises of the people are, in this case, invaded, trampled upon, and annihilated. Lord Bacon and Lord Middlesex represented no county, or city. The rights of no freeholder, the franchises of no elector, were destroyed by their expulsion. The cases are as widely different as north from south. But I will allow the noble earl a succedaneum to his argument, which, probably, he has not as yet thought of. I will suppose he urges, 'That whatever authority gives a seat to a peer, it is, at least, equally as respectable as to a commoner, and that, both in expulsion and incapacitation, the injury is directly the same:'—Granted; and I will further allow, that if Mr Wilkes had not been *re-elected* by the people, the first expulsion, I believe, would be efficient. Therefore, my lords, this comparison ceases; for, except these noble lords mentioned had received a fresh title, either by birth or patent, they could not possibly have any claim after the first expulsion. The noble lord asks, 'How came this doctrine to be broached?' And adds, 'Who should be more tenacious of their liberties and privileges than the members themselves?' In respect to the latter part of this question, I agree none should be so proper as themselves to protect their own rights and privileges; and I sincerely lament that they have, by their recent conduct, so far forgot what those privileges are, that they have added to the long list of venality from Esau to the present day. In regard to the first part, 'How came this doctrine to be broached?' I must tell the noble lord it is as old as the constitution itself; the liberties of the people, in the original distribution of government, being the first thing provided for; and in the case of Mr Wilkes, though we have not instances as numerous as in other cases, yet it is by no means the less constitutional; like a comet in the firmament, which, however it may dazzle and surprise the vulgar and untutored, by unfrequency of its appearance, the philosopher, versed in astronomic science, it affects no more than any other common process of nature, being perfectly simple, and to him perfectly intelligible. Need I remind you, my lords, at this period, of that common school-boy position, that

* A. D. 1621. † A. D. 1624.

the constitution of this country depends upon King, Lords, and Commons—that each by their power are a balance to the other? If this is not the case, why were the three estates constituted? Why should it be necessary, before an act of Parliament takes place, that their mutual concurrence should be had? My lords, I am ashamed to trudge in this common track of argument; and have no apology to make, but that I have been drawn into it by the noble lord's asserting, 'We had no right to interfere with the privileges of the other House.'

"The noble Earl has been very exact in his calculation of the proportion of persons who have petitioned; and did the affair rest merely on *this* calculation, his argument would be unanswerable; but will he consider what numbers, whose private sentiments felt all the rigour of parliamentary proceedings, but for want of a few principals to call them together, and collect their opinions, have never reached the ear of their sovereign? If we add to this number, the interest made use of on the side of government, to suppress all petitions, with the authority that placemen have necessarily over their dependants, it is very surprising, that out of forty counties, thirteen had spirit and independence sufficient to stem such a tide of venality. But I will suppose that this was not the case, that no undue influence was made use of, and that hence but one third of the people think themselves aggrieved. Are numbers to constitute rights? are not the laws of the land fixed and unalterable? and is not this proceeding complained of, or any other (supported even but by one), to be tried, and adjudged by these laws? Therefore, however the noble lord may excel in the doctrine of calculation as a speculative matter, it can by no means serve him, urged in the course of argument.

"Let us not, then, my lords, be deaf to the alarms of the people, when these alarms are founded on the infringement of their rights. Let us not sit neuter and inattentive to the proceedings of the other House. We are, equally with that House, entrusted with the people's rights, and we cannot conscientiously discharge our duties without our interference, whenever we find those rights, in any part of the constitution, trampled on.

"I have, my lords, trespassed on your patience at this late hour of the night, when the length of this debate must have fatigued your lordships considerably. But I cannot apologise in a case so deeply interesting to the nation—no time can be too long—no time can be lost—no hardships can be complained of.

"He condemned the conduct of the House of Commons in terms of asperity. He denominated the vote of that House, which had made Colonel Luttrel representative for Middlesex, a gross invasion of the rights of election—a dangerous violation of the English constitution—a treacherous surrender of the invaluable privilege of a freehold, and a corrupt sacrifice of their own honour. They had stripped the statute book of its brightest ornaments, to gild the wings, not of prerogative, but of unprincipled faction and lawless domination. To gratify the resentments of some individuals, the laws had

been despised, trampled upon, and destroyed—those laws, which had been made by the stern virtue of their ancestors, the iron barons of old, to whom we were indebted for all the blessings of our present constitution; to whose virtue and whose blood, to whose spirit in the hour of contest, and to whose tenderness in the triumph of victory, the silken barons of this day owe their honours and their seats, and both Houses of Parliament owe their continuance. These measures made a part of that unhappy system, which had been formed in the present reign, with a view to *new-model* the constitution, as well as the government. These measures originated, he would not say, with his Majesty's knowledge, but in his Majesty's councils. The Commons had slavishly obeyed the commands of his Majesty's servants, and had thereby exhibited, and proved to the conviction of every man, what might have been only matter of suspicion before—*that ministers held a corrupt influence in Parliament;* it was demonstrable—it was indisputable. It was therefore particularly necessary for their lordships, at this critical and alarming period, so full of jealousy and apprehension, to step forwards, and oppose themselves, on the one hand, to the justly incensed, and perhaps speedy intemperate rage of the people; and on the other, to the criminal and malignant conduct of his Majesty's ministers: that they might prevent licentiousness on the one side, and depredation on the other. Their lordships were the constitutional barrier between the extremes of liberty and prerogative."

The question being then put, that the Speaker should resume the chair, it was carried in the affirmative by a large majority, whereon the Earl of Marchmont made the following motion:—"That any resolution of this House, directly or indirectly impeaching a judgment of the House of Commons, in a matter where their jurisdiction is competent, final, and conclusive, would be a violation of the constitutional right of the Commons, tend to make a breach between the two Houses of Parliament, and lead to a general confusion:" which was carried after considerable discussion.

Speech of Lord Chatham, in support of a motion for appointing a committee to inquire into the expenditure of the Civil List.—16th March, 1770.

"My Lords,

"The Civil List was appropriated, in the first instance, to the support of the civil government; and in the next, to the honour and dignity of the crown. In every other respect, the minute and particular expenses of the Civil List are as open to parliamentary examination and inquiry, in regard to the application and abuse, as any other grant of the people, to any other purpose: and ministers are equally or more culpable for incurring an unprovided expense, and for running in arrears this service, as for any other. The preambles of the Civil List acts prove this: and none but children, novices, or ignorants, will ever act without proper regard to them: and therefore, I can never consent to increase fraudulently the civil establish-

ment, under pretence of making up deficiencies; nor will I bid so high for royal favour; and the minister who is bold enough to spend the people's money before it is granted (even though it were not for the purpose of corrupting their representatives), and thereby leaving the people of England no other alternative, but either to disgrace their Sovereign, by not paying his debts, or to become the prey of every unthrifty or corrupt minister—such minister deserves death.

"The late good old King had something of humanity, and amongst other royal and manly virtues, he possessed justice, truth, and sincerity, in an eminent degree; so that he had something about him, by which it was possible for you to know whether he liked you or disliked you.

"I have been told that I have a pension, and that I have recommended others to pensions. It is true; and here is a list of them: you will find there the names of General Amherst, Sir Edward Hawke, and several others of the same nature; they were given as rewards for real services, and as encouragements to other gallant heroes. They were honourably earned in a different sort of campaigns than those at Westminster; they were gained by actions, full of danger to themselves, of glory and benefaction to this nation; not by corrupt votes of baseness and destruction to their country.

"You will find no secret services there, and you will find, that when the warrior was recompensed, the member of Parliament was left free. You will likewise find a pension of £1500 a year to Lord Camden. I recommended his lordship to be Chancellor; his public and private virtues were acknowledged by all; they made his station more precarious. I could not reasonably expect from him, that he would quit the Chief Justiceship of the Common Pleas, which he held for life, and put himself in the power of those who were not to be trusted, to be dismissed from the Chancery, perhaps the day after his appointment. The public has not been deceived by his conduct. My suspicions have been justified. His integrity has made him once more a poor and a private man; he was dismissed for the vote he gave in favour of the right of election in the people."

[Lord Chatham was here called to order, and Lord Marchmont moved that his words should be taken down. Lord Chatham seconded the motion, adding—]

"I neither deny, retract, nor explain these words. I do re-affirm the fact, and I desire to meet the sense of the House; I appeal to the honour of every lord in this House, whether he has not the same conviction."

[Several of the lords answered to this appeal, and declared their assent. Lord Marchmont, however, still persisting in his motion, Lord Chatham proceeded:—]

"My words remain unretracted, unexplained, and re-affirmed. I desire to know whether I am condemned or acquitted; and whether I may still

presume to hold up my head as high as the noble lord who moved to have my words taken down."

[No answer having been given, Lord Chatham said:—]

"If I am to go off acquitted, I do now declare to you there are many men to impeach, and many measures to arraign, for the security of this nation and the very existence of our laws and constitution; and, by God's blessing, I will arraign and impeach them."

[His lordship was reproached for having recommended the Duke of Grafton, and that he had pushed the duke forward and forced him on the King as his first minister; to which he replied, "That he had, indeed, recommended him for the treasury, but he never could be supposed to have thought of that boy at the first minister of a great nation."

He proceeded:—]

"I advised his Majesty to take the Duke of Grafton as first lord of the treasury, but there is such a thing as time as well as tide; and the conduct of the noble duke has convinced me, that I am as likely to be deceived as any other man, and as fallible as my betters. It was an expression of that great minister Sir R. Walpole, upon a debate on the army in the year 1737, 'Those who gave the power of blood gave blood.' I will beg leave to parodize the expression, and say, those who gave the means of corruption, gave corruption. *I will trust no sovereign in the world with the means of purchasing the liberties of the people.* When I had the honour of being the confidential keeper of the King's intention, he assured me, that he *never intended to exceed the allowance* which was made by Parliament; and therefore, my lords, at a time when there are no marks of personal dissipation in our King, at a time when there are no marks of any considerable sums having been expended to procure the secrets of our enemies; that a request of an inquiry into the expenditure of the Civil List should be refused, is to me most extraordinary. Does the King of England want to build a palace equal to his rank and dignity? Does he want to encourage the polite and useful arts? Does he mean to reward the hardy veteran, who has defended his quarrel in many a rough campaign, whose salary does not equal that of some of your servants? Or does he mean, by drawing the purse-strings of his subjects, to spread corruption through the people, to procure a Parliament, like a packed jury, ready to acquit his ministers at all adventures? I do not say, my lords, that corruption lies *here*, or that corruption lies *there*; but if any gentlemen in England were to ask me, whether I thought both Houses of Parliament were bribed, *I should laugh in his face*, and say, 'Sir, it is not so.' Therefore, my lords, from all that has been said, I think it must appear, that an inquiry into the Civil List is expedient, proper, and just; a refusal of it at this time will not add dignity to disgrace, but will only serve to convince the people that we are governed by a set of abjects who possess the peculiar talent of making even calamity ridiculous."

The motion was lost.

Speech in support of a motion by the Duke of Richmond on the 22nd of November, 1770, for production of all correspondence and papers received by ministers between the 12th of September, 1769, and 12th of September, 1770, containing any intelligence of hostilities either commenced or intended by Spain against any of his Majesty's dominions, and the times when such intelligence was received.

The circumstances which gave rise to this motion were these :—The Falkland Islands had been in the possession of the English since January, 1765; but, in 1770, the Spanish government suddenly sent a force from Buenos Ayres against Port Egmont, which, as the British were not in a position to offer any effectual resistance, was surrendered. To delay early intelligence arriving in England, the Spanish commodore unshipped the rudder of the vessel of Captain Farmer, the British commandant, and kept it on shore for twenty days.

Instead of resenting such conduct, the English government appear to have remained perfectly quiet from the 3rd of June, when intelligence arrived, till the 12th of September, 1770, when orders were given for fitting out a fleet; but nothing decisive was done between that time and the motion of the Duke of Richmond, Government merely stating that negotiations were still depending.

Ultimately Spain disavowed the proceedings of the governor of Buenos Ayres, and restored the settlement, but upon an understanding, between the two governments, that after a short period the English were to abandon it.

The motion was opposed by Lord Weymouth, the Secretary of State, after which Lord Chatham addressed the House thus :—

"I rise to give my hearty assent to the motion made by the noble duke: by his Grace's favour, I have been permitted to see it before it was offered to the House. I have fully considered the necessity of obtaining from the King's servants a communication of the papers described in the motion, and I am persuaded that the alarming state of facts, as well as the strength of reasoning, with which the noble duke has urged and enforced that necessity, must have been powerfully felt by your lordships. What I mean to say, upon this occasion, may seem, perhaps, to extend beyond the limits of the motion before us. But I flatter myself, my lords, that if I am honoured with your attention, it will appear that the meaning and object of this question are naturally connected with considerations of the most extensive, national importance. For entering into such considerations, no season is improper—no occasion should be neglected. Something must be done, my lords, and immediately, to save an injured, insulted, undone country; if not to save the state, my lords, at least to mark out, and drag to public justice those servants of the Crown, by whose ignorance, neglect, or treachery, this once great flourishing people are reduced to a condition as deplorable at home, as it is despicable abroad. Examples are wanted, my lords, and should be given to the world, for the instruction of future times, even though they be useless to ourselves. I do not mean, my lords, nor is it intended by the

motion, to impede or embarrass a negotiation, which we have been told is now in a prosperous train, and promises a happy conclusion."

Lord WEYMOUTH :—"I beg pardon for interrupting the noble lord, but I think it necessary to remark to your lordships, that I have not said a single word tending to convey to your lordships any information, or opinion, with regard to the state or progress of the negotiation—I did, with the utmost caution, avoid giving to your lordships the least intimation upon that matter."

Earl of CHATHAM—"I perfectly agree with the noble lord. I did not mean to refer to anything said by his lordship. He expressed himself, as he always does, with moderation and reserve, and with the greatest propriety; it was another noble lord, very high in office, who told us he understood that the negotiation was in a favourable train."

Earl of HILLSBOROUGH—"I did not make use of the word train. I know the meaning of the word too well. In the language from which it was derived, it signifies protraction and delay, which I could never mean to apply to the present negotiation."

Earl of CHATHAM—"This is the second time that I have been interrupted. I submit it to your lordships whether this be fair and candid treatment. I am sure it is contrary to the orders of the House, and a gross violation of decency and politeness. I listen to every noble lord in this House with attention and respect. The noble lord's design in interrupting me, is as mean and unworthy, as the manner in which he has done it is irregular and disorderly. He flatters himself that, by breaking the thread of my discourse, he shall confuse me in my argument. But, my lord, I will not submit to this treatment. I will not be interrupted. When I have concluded, let him answer me if he can. As to the word which he has denied, I still affirm that it was the word he made use of; but if he had used any other, I am sure every noble lord will agree with me, that his meaning was exactly what I had expressed it. Whether he said 'course' or 'train' is indifferent;—he told your lordships that the negotiation was in a way that promised a happy and honourable conclusion. His distinctions are mean, frivolous, and puerile. My lords, I do not understand the exalted tone assumed by that noble lord. In the distress and weakness of this country, my lords, and conscious as the ministry ought to be how much they have contributed to that distress and weakness, I think a tone of modesty, of submission, of humility, would become them better; *quædam causæ modestiam desiderant.* Before this country they stand as the greatest criminals. Such I shall prove them to be; for I do not doubt of proving, to your lordships' satisfaction, that since they have been entrusted with the conduct of the King's affairs, they have done everything that they ought not to have done, and hardly anything that they ought to have done. The noble lord talks of Spanish punctilios in the lofty style and idiom of a Spaniard. We are to be wonderfully tender of the Spanish point of honour, as if *they* had been the complainants, as if *they* had received the injury. I think he would have done better to have told us, what care had been taken of the English honour. My lords, I am well acquainted with the character

of that nation, at least as far as it is represented by their court and ministry, and should think this country dishonoured by a comparison of the English good faith with the punctilios of a Spaniard. My lords, the English are a candid, an ingenuous people; the Spaniards are as mean and crafty, as they are proud and insolent. The integrity of the English merchant, the generous spirit of our naval and military officers, would be degraded by a comparison with *their* merchants or officers. With their ministers I have often been obliged to negotiate, and never met with an instance of candour or dignity in their proceedings; nothing but low cunning, trick, and artifice. After a long experience of their want of candour and good faith, I found myself compelled to talk to them in a peremptory, decisive language. On this principle I submitted my advice to a trembling council for an immediate declaration of a war with Spain. Your lordships well know what were the consequences of not following that advice. Since, however, for reasons unknown to me, it has been thought advisable to negotiate with the court of Spain, I should have conceived that the great and single object of such a negotiation would have been, to have obtained complete satisfaction for the injury done to the crown and people of England. But, if I understand the noble lord, the only object of the present negotiation is to find a salvo for the punctilious honour of the Spaniards. The absurdity of such an idea is of itself insupportable. But, my lords, I object to our negotiating at all, in our present circumstances. We are not in that situation in which a great and powerful nation is permitted to negotiate. A foreign power has forcibly robbed his Majesty of a part of his dominions. Is the island restored? Are you replaced *in statu quo?* If that had been done, it might then, perhaps, have been justifiable to treat with the aggressor upon the satisfaction he ought to make for the insult offered to the crown of England. But will you descend so low? Will you so shamefully betray the King's honour, as to make it matter of negotiation whether his Majesty's possessions shall be restored to him or not? I doubt not, my lords, that there are some important mysteries in the conduct of this affair, which, whenever they are explained, will account for the profound silence now observed by the King's servants. The time will come, my lords, when they shall be dragged from their concealments. There are some questions, which, sooner or later, must be answered. The ministry, I find, without declaring themselves explicitly, have taken pains to possess the public with an opinion, that the Spanish court have constantly disavowed the proceedings of their governor; and some persons, I see, have been shameless and daring enough to advise his Majesty to support and countenance this opinion in his speech from the throne. Certainly, my lords, there never was a more odious, a more infamous falsehood imposed on a great nation; it degrades the King's honour—it is an insult to Parliament. His Majesty has been advised to confirm and give currency to an *absolute falsehood.* I beg your lordships' attention, and I hope I shall be understood, when I repeat, that the court of Spain's having disavowed the act of their governor is an *absolute, a palpable falsehood.*

Let me ask, my lords, when the first communication was made by the court of Madrid, of their being apprised of their taking of Falkland's Islands, was it accompanied with an offer of instant restitution, of immediate satisfaction, and the punishment of the Spanish governor? If it was not, they have adopted the act as their own, and the very mention of a disavowal is an impudent insult offered to the King's dignity. The king of Spain disowns the thief, while he leaves him unpunished, and profits by the theft; in vulgar English, he is the receiver of stolen goods, and ought to be treated accordingly.

"If your lordships will look back to a period of the English history, in which the circumstances are reversed, in which the Spaniards were the complainants, you will see how differently *they* succeeded: you will see one of the ablest men, one of the bravest officers this or any other country ever produced (it is hardly necessary to mention the name of Sir Walter Raleigh), sacrificed by the meanest prince that ever sat upon the throne, to the vindictive jealousy of that haughty court. James the First was base enough, at the instance of Gondomar, to suffer a sentence against Sir Walter Raleigh, for another supposed offence, to be carried into execution almost twelve years after it had been passed. This was the pretence. His real crime was, that he had mortally offended the Spaniards, while he acted by the King's express orders, and under his commission.*

"My lords, the pretended disavowal by the court of Spain is as ridiculous as it is false. If your lordships want any other proof, call for your own officers, who were stationed at Falkland Island. Ask the officer who commanded the garrison, whether, when he was summoned to surrender, the demand was made in the name of the governor of Buenos Ayres, or of his catholic Majesty? Was the island said to belong to Don Francisco Bucarelli, or to the king of Spain? If I am not mistaken, we have been in possession of these islands since the year 1764, or 1765. Will the ministry assert that, in all that time, the Spanish court have never once claimed them? that their right to them has never been urged, or mentioned to our ministry? If it has, the act of the governor of Buenos Ayres is plainly the consequence of our refusal to acknowledge and submit to the Spanish claims. For five years they negotiate; when that fails, they take the island by force. If that measure had arisen out of the general instructions constantly given to the governor of Buenos Ayres, why should the execution of it have been deferred so long?

"My lords, if the falsehood of this pretended disavowal had been confined to the court of Spain, I should have admitted it without concern. I should

* Lord Chatham does not appear to be justified in making this remark, for Raleigh's commission empowered him to settle only on a coast possessed by savages; and when Gondomar, the Spanish ambassador, complained to the King of the warlike appearance of the expedition, Raleigh protested the innocence of his intentions; and King James "assured Gondomar that he durst not form any hostile attempt, but should pay with his head for so audacious an enterprise."

have been content that they themselves had left a door open for excuse and accommodation. The king of England's honour is not touched till he adopts the falsehood, delivers it to his Parliament, and makes it his own. I cannot quit this subject without comparing the conduct of the present ministry with that of a gentleman (Mr George Grenville) who is now no more. The occasions were similar. The French had taken a little island from us called Turk's Island.* The minister then at the head of the treasury took the business upon himself; but he did not negotiate: he sent for the French ambassador, and made a peremptory demand. A courier was despatched to Paris, and returned in a few days, with orders for instant restitution, not only of the island, but of everything that the English subjects had lost.

"Such, then, my lords, are the circumstances of our difference with Spain; and, in this situation, we are told that a negotiation has been entered into; that this negotiation, which must have commenced near three months ago, is still depending, and that any insight into the actual state of it will impede the conclusion. My lords, I am not, for my own part, very anxious to draw from the ministry the information which they take so much care to conceal from us. I very well know where this honourable negotiation *will* end; where it *must* end. We may, perhaps, be able to patch up an accommodation for the present, but we shall have a Spanish war in six months. Some of your lordships may, perhaps, remember the convention. For several successive years our merchants had been plundered—no protection given them—no redress obtained for them; during all that time we were contented to complain, and to negotiate; the court of Madrid were then as ready to disown their officers, and as unwilling to punish them, as they are at present. Whatever violence happened was always laid to the charge of one or other of their West India governors. To-day it was the Governor of Cuba, to-morrow of Porto Rico, Carthagena, or Porto Bello. If, in a particular instance, redress was promised, how was that promise kept? The merchant, who had been robbed of his property, was sent to the West Indies, to get it, if he could, out of an empty chest. At last the convention was made; but, though approved by a majority of both Houses, was received by the nation with universal discontent. I myself heard that wise man (Sir Robert Walpole) say, in the House of Commons, 'Tis true we have got a convention and a vote of Parliament; but what signifies it? we shall have a Spanish war upon the back of our convention.' Here, my lords, I cannot help mentioning a very striking observation made to me by a noble lord (the late Lord Granville), since dead. His abilities did honour to this House, and to this nation. In the upper departments of government he had not his equal; and I feel a pride in declaring, that to his patronage, to his friendship and instruction, I owe whatever I am. This great man has often observed to me that, in all the negotiations which preceded the convention, our ministers never found out that there was no ground or subject for any negotiation; that the Spaniards had not a right to search our ships, and when they

* A.D. 1764.

attempted to regulate that right by treaty, they were regulating a thing which did not exist. This I take to be something like the case of the ministry. The Spaniards have seized an island they have no right to, and his Majesty's servants make it matter of negotiation, whether his dominions shall be restored to him, or not.

"From what I have said, my lords, I do not doubt but it will be understood by many lords, and given out to the public, that I am for hurrying the nation, at all events, into a war with Spain. My lords, I disclaim such counsels, and I beg that this declaration may be remembered—Let us have peace, my lords, but let it be honourable, let it be secure. A patched-up peace will not do. It will not satisfy the nation, though it may be approved of by Parliament. I distinguish widely between a solid peace, and the disgraceful expedients by which a war may be deferred, but cannot be avoided. I am as tender of the effusion of human blood, as the noble lord who dwelt so long upon the miseries of war. If the bloody politics of some noble lords had been followed, England, and every quarter of his Majesty's dominions, had been glutted with blood—the blood of our own countrymen.

"My lords, I have better reasons, perhaps, than many of your lordships for desiring peace upon the terms I have described. I know the strength and preparation of the house of Bourbon; I know the defenceless, unprepared condition of this country. I know not by what mismanagement we are reduced to this situation; and when I consider who are the men by whom a war, in the outset at least, must be conducted, can I but wish for peace? Let them not screen themselves behind the want of intelligence—they had intelligence: I know they had. If they had not, they are criminal; and their excuse is their crime. But I will tell these young ministers the true source of intelligence. It is sagacity: sagacity to compare causes and effects; to judge of the present state of things, and discern the future by a careful review of the past. Oliver Cromwell, who astonished mankind by his intelligence, did not derive it from spies in the cabinet of every prince in Europe: he drew it from the cabinet of his own sagacious mind. He observed facts and traced them forward to their consequences. From what was, he concluded what must be, and he never was deceived. In the present situation of affairs, I think it would be treachery to the nation to conceal from them their real circumstances; and with respect to a foreign enemy, I know that all concealments are vain and useless. They are as well acquainted with the actual force and weakness of this country, as any of the King's servants. This is no time for silence, or reserve. I charge the ministers with the highest crimes that men in their stations can be guilty of. I charge them with having destroyed all content and unanimity at home, by a series of oppressive, unconstitutional measures; and with having betrayed and delivered up the nation defenceless to a foreign enemy.

Their utmost vigour has reached no farther than to a fruitless, protracted negotiation. When they should have acted, they have contented themselves with talking 'about it, Goddess, and about it.' If we do not stand

forth, and do our duty in the present crisis, the nation is irretrievably undone. I despise the little policy of concealments. You ought to know the whole of your situation. If the information be new to the ministry, let them take care to profit by it. I mean to rouse, to alarm the whole nation—to rouse the ministry, if possible, who seem awake to nothing but the preservation of their places—to awaken the King.

"Early in the last spring, a motion was made in Parliament, for inquiring into the state of the navy, and an augmentation of six thousand seamen was offered to the ministry. They refused to give us any insight into the condition of the navy, and rejected the augmentation. Early in June they received advice of a commencement of hostilities by a Spanish armament which had warned the King's garrison to quit an island belonging to his Majesty. From that to the 12th of September, as if nothing had happened, they lay dormant. Not a man was raised, not a single ship put into commission. From the 12th of September, when they heard of the first blow being actually struck, we are to date the beginning of their preparations for defence. Let us now inquire, my lords, what expedition they have used, what vigour they have exerted. We have heard wonders of the diligence employed in impressing, of the large bounties offered, and the number of ships put into commission. These have been, for some time past, the constant topics of ministerial boast and triumph. Without regarding the description, let us look to the substance. I tell your lordships that, with all this vigour and expedition, they have not, in a period of considerably more than two months, raised ten thousand seamen. I mention that number, meaning to speak largely, though, in my own breast, I am convinced that the number does not exceed eight thousand. But it is said they have ordered forty ships of the line into commission. My lords, upon this subject I can speak with knowledge—I have been conversant in these matters, and draw my information from the greatest and most respectable naval authority that ever existed in this country—I mean the late Lord Anson. The merits of that great man are not so universally known, nor his memory so warmly respected, as he deserved. To his wisdom, to his experience and care, (and I speak it with pleasure,) the nation owes the glorious naval successes of the last war. The state of facts laid before Parliament in the year 1756, so entirely convinced me of the injustice done to his character, that in spite of the popular clamours raised against him, in direct opposition to the complaints of the merchants, and of the whole city (whose favour I am supposed to court upon all occasions), I replaced him at the head of the Admiralty: and I thank God that I had resolution enough to do so. Instructed by this great seaman, I do affirm, that forty ships of the line, with their necessary attendant frigates, to be properly manned, require forty thousand seamen. If your lordships are surprised at this assertion, you will be more so, when I assure you that in the last war this country maintained eighty-five thousand seamen, and employed them all. Now, my lords, the peace establishment of your navy, supposing it complete and effective (which, by the bye, ought to be known), is sixteen

thousand men. Add to these the number newly raised, and you have about twenty-five thousand men to man your fleet. I shall come presently to the application of this force, such as it is, and compare it with the services which I know are indispensable. But first, my lords, let us have done with the boasted vigour of the ministry. Let us hear no more of their activity. If your lordships will recall to your minds the state of this country when Mahon was taken, and compare what was done by government at that time, with the efforts now made in very similar circumstances, you will be able to determine what praise is due to the vigorous operations of the present ministry. Upon the first intelligence of the invasion of Minorca, a great fleet was equipped, and sent out; and near double the number of seamen collected in half the time taken to fit out the present force, which, pitiful as it is, is not yet, if the occasion were ever so pressing, in a condition to go to sea. Consult the returns which were laid before Parliament in the year 1756. I was one of those who urged a parliamentary inquiry into the conduct of the ministry. That ministry, my lords, in the midst of universal censure and reproach, had honour and virtue enough to promote the inquiry themselves. They scorned to evade it by the mean expedient of putting a previous question.* Upon the strictest inquiry it appeared, that the diligence they had used in sending a squadron to the Mediterranean, and in their other naval preparations, was beyond all example.

"My lords, the subject on which I am speaking seems to call upon me, and I willingly take this occasion to declare my opinion upon a question on which much wicked pains have been employed to disturb the minds of the people, and to distress government. My opinion may not be very popular; neither am I running the race of popularity. I am myself clearly convinced, and I believe every man who knows anything of the English navy will acknowledge, that without impressing, it is impossible to equip a respectable fleet within the time in which such armaments are usually wanted. If this fact be admitted, and if the necessity of arming upon a sudden emergency should appear incontrovertible, what shall we think of those men, who, in the moment of danger, would stop the great defence of their country? Upon whatever principle they may act, the act itself is more than faction—it is labouring to cut off the right hand of the community. I wholly condemn their conduct, and am ready to support any motion that may be made, for bringing those aldermen, who have endeavoured to stop the execution of the Admiralty warrants, to the bar of this House. My lords, I do not rest my opinion merely upon necessity. I am satisfied that the power of impressing is founded upon uninterrupted usage. It is the *consuetudo regni*, and part of the common-law prerogative of the Crown. When I condemn the proceedings of some persons upon this occasion, let me do justice to a man whose character and conduct have been infamously traduced; I mean the late lord mayor, Mr Trecothick. In the midst of reproach and clamour, he

* Lord Weymouth had concluded by moving the previous question.

had firmness enough to persevere in doing his duty. I do not know in office a more upright magistrate; nor, in private life, a worthier man.

"Permit me now, my lords, to state to your lordships the extent and variety of the service which must be provided for, and to compare them with our apparent resources. A due attention to, and provision for these services, is prudence in time of peace; in war it is necessity. Preventive policy, my lords, which obviates or avoids the injury, is far preferable to that vindictive policy which aims at reparation, or has no object but revenge. The precaution that meets the disorder is cheap and easy; the remedy which follows it, bloody and expensive. The first great and acknowledged object of national defence, in this country, is to maintain such a superior naval force at home, that even the united fleets of France and Spain may never be masters of the Channel. If that should ever happen, what is there to hinder their landing in Ireland, or even upon our own coast? They have often made the attempt: in King William's time it succeeded. King James embarked on board a French fleet, and landed with a French army in Ireland. In the mean time the French were masters of the Channel, and continued so until their fleet was destroyed by Admiral Russel. As to the probable consequences of a foreign army landing either in Great Britain or Ireland, I shall offer your lordships my opinion when I speak of the actual condition of our standing army.

"The second naval object with an English minister, should be to maintain at all times a powerful western squadron. In the profoundest peace it should be respectable; in war should be formidable. Without it, the colonies, the commerce, the navigation of Great Britain, lie at the mercy of the House of Bourbon. While *I* had the honour of acting with Lord Anson, that able officer never ceased to inculcate upon the minds of his Majesty's servants the necessity of constantly maintaining a strong western squadron; and I must vouch for him, that while *he* was at the head of the marine it was never neglected.

"The third object, indispensable, as I conceive, in the distribution of our navy, is to maintain such a force in the Bay of Gibraltar as may be sufficient to cover that garrison, to watch the motions of the Spaniards, and to keep open the communication with Minorca. The ministry will not betray such want of information as to dispute the truth of any of these propositions. But how will your lordships be astonished, when I inform you in what manner they have provided for these great, these essential objects! As to the first, I mean the defence of the Channel, I take upon myself to affirm to your lordships, that at this hour (and I beg that the date may be taken down and observed) we cannot send out eleven ships of the line so manned and equipped that any officer of rank and credit in the service shall accept of the command and stake his reputation upon it. We have one ship of the line at Jamaica, one at the Leeward Islands, and one at Gibraltar; yet, at this very moment, for aught the ministry know, both Jamaica and Gibraltar may be attacked; and if they are attacked (which God forbid) they must fall.

Nothing can prevent it but the appearance of a superior squadron. It is true that, some two months ago, four ships of the line were ordered from Portsmouth, and one from Plymouth, to carry a relief from Ireland to Gibraltar. These ships, my lords, a week ago, were still in port. If, upon their arrival at Gibraltar, they should find the Bay possessed by a superior squadron, the relief cannot be landed: and if it could be landed, of what force do your lordships think it consists? Two regiments, of four hundred men each, at a time like this, are sent to secure a place of such importance as Gibraltar! a place which it is universally agreed cannot hold against a vigorous attack from the sea, if once the enemy should be so far masters of the Bay as to make good a landing even with a moderate force. The indispensable service of the lines requires at least four thousand men. The present garrison consists of about two thousand three hundred; so that, if the relief should be fortunate enough to get on shore, they will want eight hundred men of their necessary complement.

"Let us now, my lords, turn our eyes homewards. When the defence of Great Britain or Ireland is in question, it is no longer a point of honour; it is not the security of foreign commerce, or foreign possessions: we are to contend for the very being of the state. I have good authority to assure your lordships that the Spaniards have now a fleet at Ferrol, completely manned and ready to sail, which we are in no condition to meet. We could not this day send out eleven ships of the line properly equipped, and to-morrow the enemy may be masters of the Channel. It is unnecessary to press the consequences of these facts upon your lordships' minds. If the enemy were to land in full force, either upon this coast or in Ireland, where is your army? where is your defence? My lords, if the House of Bourbon make a wise and vigorous use of the actual advantages they have over us, it is more than probable that on this day month we may not be a nation. What military force can the ministry show to answer any sudden demand? I do not speak of foreign expeditions, or offensive operations. I speak of the interior defence of Ireland, and of this country. You have a nominal army of seventy battalions, besides guards and cavalry. But what is the establishment of these battalions? Supposing they were complete to the numbers allowed (which I know they are not) each regiment would consist of something less than four hundred men, rank and file. Are these battalions complete? Have any orders been given for an augmentation, or do the ministry mean to continue them upon their present low establishment? When America, the West Indies, Gibraltar, and Minorca, are taken care of, consider, my lords, what part of this army will remain to defend Ireland and Great Britain? This subject, my lords, leads me to considerations of foreign policy and foreign alliance. It is more connected with them than your lordships may at first imagine. When I compare the numbers of our people, estimated highly at seven millions, with the population of France and Spain, usually computed at twenty-five millions, I see a clear, self-evident impossibility for this country to contend with the united power of the House of Bourbon,

merely upon the strength of its own resources. They who talk of confining a great war to naval operations only, speak without knowledge or experience. We can no more command the disposition than the events of a war. Wherever we are attacked, there we must defend.

"I have been much abused, my lords, for supporting a war, which it has been the fashion to call *my* German war. But I can affirm, with a clear conscience, that that abuse has been thrown upon me by men who were either unacquainted with facts, or had an interest in misrepresenting them. I shall speak plainly and frankly to your lordships upon this, as I do upon every occasion. That I did in Parliament oppose, to the utmost of my power, our engaging in a German war, is most true; and if the same circumstance were to recur, I would act the same part, and oppose it again. But when I was called upon to take a share in the administration, that measure was already decided. Before I was appointed Secretary of State, the first treaty with the King of Prussia was signed, and not only ratified by the Crown, but approved of and confirmed by a resolution of both Houses of Parliament. It was a weight fastened upon my neck. By that treaty, the honour of the Crown and the honour of our nation were equally engaged. How I could recede from such an engagement; how I could advise the Crown to desert a great prince in the midst of those difficulties in which a reliance upon the good faith of this country had contributed to involve him, are questions I willingly submit to your lordships' candour. That wonderful man* might, perhaps, have extricated himself from his difficulties without our assistance. He has talents which, in everything that touches the human capacity, do honour to the human mind. But how would England have supported that reputation of credit and good faith, by which we have been distinguished in Europe? What other foreign power would have sought our friendship? What other foreign power would have accepted of an alliance with us?

"But, my lords, though I wholly condemn our entering into any engagements which tend to involve us in a continental war, I do not admit that alliances with some of the German princes are either detrimental or useless. They *may be*, my lords, not only useful, but necessary. I hope, indeed, I shall never see an army of foreign auxiliaries in Great Britain: we do not want it. If our people are united; if they are attached to the King, and place a confidence in his government, we have an internal strength sufficient to repel any foreign invasion. With respect to Ireland, my lords, I am not of the same opinion. If a powerful foreign army were landed in that kingdom, with arms ready to be put into the hands of the Roman Catholics, I declare freely to your lordships, that I should heartily wish it were possible to collect twenty thousand German protestants, whether from Hesse or Brunswick, or Wolfenbottel, or even the unpopular Hanoverian, and land them in Ireland; I wish it, my lords, because I am convinced that, whenever the case happens, we shall have no English army to spare.

* Frederick the Great.

"I have taken a wide circuit, my lords; and trespassed, I fear, too long upon your lordships' patience. Yet I cannot conclude without endeavouring to bring home your thoughts to an object more immediately interesting to us than any I have yet considered; I mean the internal condition of this country. We may look abroad for wealth, or triumphs, or luxury; but England, my lords, is the main stay, the last resort of the whole empire. To this point every scheme of policy, whether foreign or domestic, should ultimately refer. Have any measures been taken to satisfy or to unite the people? Are the grievances they have so long complained of removed? or do they stand not only unredressed, but aggravated? Is the right of free election restored to the elective body? My lords, I myself am one of the people. I esteem that security and independence, which is the original birthright of an Englishman, far beyond the privileges, however splendid, which are annexed to the peerage. I myself am by birth an English elector, and join with the freeholders of England as in a common cause. Believe me, my lords, we mistake our real interest as much as our duty, when we separate ourselves from the mass of the people. Can it be expected that Englishmen will unite heartily in defence of a government, by which they feel themselves insulted and oppressed? Restore them to their rights; that is the true way to make them unanimous. It is not a ceremonious recommendation from the throne, that can bring back peace and harmony to a discontented people. That insipid annual opiate has been administered so long, that it has lost its effect. Something substantial, something effectual must be done.

"The public credit of the nation stands next in degree to the rights of the constitution; it calls loudly for the interposition of Parliament. There is a set of men, my lords, in the city of London, who are known to live in riot and luxury, upon the plunder of the ignorant, the innocent, the helpless—upon that part of the community which stands most in need of, and best deserves the care and protection of the legislature. To me, my lords, whether they be miserable jobbers of 'Change alley, or the lofty Asiatic plunderers of Leadenhall-street, they are all equally detestable. I care but little whether a man walks on foot, or is drawn by eight horses or six horses; if his luxury be supported by the plunder of his country, I despise and detest him. My lords, while I had the honour of serving his Majesty, I never ventured to look at the Treasury but at a distance; it is a business I am unfit for, and to which I never could have submitted. The little I know of it has not served to raise my opinion of what is vulgarly called the *monied interest;* I mean that bloodsucker, that muckworm, which calls itself the friend of government—that pretends to serve this or that administration, and may be purchased, on the same terms, by any administration—that advances money to government, and takes special care of its own emoluments. Under this description I include the whole race of commissaries, jobbers, contractors, clothiers, and remitters. Yet I do not deny that even with these creatures some management may be necessary. I hope, my lords, that nothing I have said will be understood to extend to the honest, industrious tradesman, who holds the

middle rank, and has given repeated proofs that he prefers law and liberty to gold. I love that class of men. Much less would I be thought to reflect upon the fair merchant, whose liberal commerce is the prime source of national wealth. I esteem his occupation, and respect his character.

"My lords, if the general representation which I have had the honour to lay before you of the situation of public affairs, has, in any measure, engaged your attention, your lordships, I am sure, will agree with me, that the season calls for more than common prudence and vigour in the direction of our councils. The difficulty of the crisis demands a wise, a firm, and a popular administration. The dishonourable traffic of places has engaged us too long. Upon this subject, my lords, I speak without interest or enmity. I have no personal objection to any of the King's servants. I shall never be minister; certainly not without full power to cut away all the rotten branches of Government. Yet, unconcerned as I truly am for myself, I cannot avoid seeing some capital errors in the distribution of the royal favour. There are men, my lords, who, if their own services were forgotten, ought to have an hereditary merit with the House of Hanover; whose ancestors stood forth in the day of trouble, opposed their persons and fortunes to treachery and rebellion, and secured to his Majesty's family this splendid power of rewarding. There are other men, my lords,* who, to speak tenderly of them, were not quite so forward in the demonstrations of their zeal to the reigning family; there was another cause, my lords, and a partiality to it, which some persons had not, at all times, discretion enough to conceal. I know I shall be accused of attempting to revive distinctions. My lords, if it were possible, I would abolish all distinctions. I would not wish the favours of the Crown to flow invariably in one channel. But there are some distinctions which are inherent in the nature of things. There is a distinction between right and wrong,—between whig and tory.

"When I speak of an administration, such as the necessity of the season calls for, my views are large and comprehensive.—It must be popular, that it may begin with reputation.—It must be strong within itself, that it may proceed with vigour and decision. An administration formed upon an exclusive system of family connexions, or private friendships, cannot, I am convinced, be long supported in this country. Yet, my lords, no man respects or values more than I do, that honourable connexion which arises from a disinterested concurrence in opinion upon public measures, or from the sacred bond of private friendship and esteem. What I mean is, that no single man's private friendships or connexions, however extensive, are sufficient of themselves, either to form or overturn an administration. With respect to the ministry, I believe they have fewer rivals than they imagine. No prudent man will covet a situation so beset with difficulty and danger.

"I shall trouble your lordships with but a few words more. His Majesty tells us in his speech, that he will call upon us for our advice, if it should be necessary in the farther progress of this affair. It is not easy to say whether

* His lordship here looked at Lord Mansfield.

or no the ministry are serious in this declaration; nor what is meant by the *progress* of an affair which rests upon one fixed point. Hitherto we have not been called upon. But, though we are not consulted, it is our right and duty as the King's great hereditary Council to offer him our advice. The papers mentioned in the noble duke's motion, will enable us to form a just and accurate opinion of the conduct of his Majesty's servants, though not of the actual state of their honourable negotiations. The ministry, too, seem to want advice upon some points, in which their own safety is immediately concerned. They are now balancing between a war which they ought to have foreseen, but for which they have made no provision, and an ignominious compromise. Let me warn them of their danger. If they are forced into a war, they stand it at the hazard of their heads. If, by an ignominious compromise, they should stain the honour of the Crown, or sacrifice the rights of the people, let them look to their consciences, and consider whether they will be able to walk the streets in safety."

The motion was lost.

Speech of Lord Chatham, on the 27th May, 1774, in opposition to a bill for quartering troops in America.

"My Lords,

"The unfavourable state of health under which I have long laboured, could not prevent me from laying before your lordships my thoughts on the bill now upon the table, and on the American affairs in general.

"If we take a transient view of those motives which induced the ancestors of our fellow-subjects in America to leave their native country, to encounter the innumerable difficulties of the unexplored regions of the western world, our astonishment at the present conduct of their descendants will naturally subside. There was no corner of the world into which men of their free and enterprising spirit would not fly with alacrity, rather than submit to the slavish and tyrannical principles which prevailed at that period* in their native country. And shall we wonder, my lords, if the descendants of such illustrious characters spurn, with contempt, the hand of unconstitutional power, that would snatch from them such dear-bought privileges as they now contend for? Had the British colonies been planted by any other kingdom than our own, the inhabitants would have carried with them the chains of slavery and spirit of despotism; but as they are, they ought to be remembered as great instances to instruct the world, what great exertions mankind will naturally make, when they are left to the free exercise of their own powers. And, my lords, notwithstanding my intention to give my hearty negative to the question now before you, I cannot help condemning, in the severest manner, the late turbulent and unwarrantable conduct of the Americans in some instances, particularly in the late riots of Boston. But,

* The reign of James I.

my lords, the mode which has been pursued to bring them back to a sense of their duty to their parent state, has been so diametrically opposite to the fundamental principles of sound policy, that individuals possessed of common understanding must be astonished at such proceedings. By blocking up the harbour of Boston,* you have involved the innocent trader in the same punishment with the guilty profligates who destroyed your merchandise; and instead of making a well-concerted effort to secure the real offenders, you clap a naval and military extinguisher over their harbour, and punish the crime of a few lawless depredators and their abettors, upon the whole body of the inhabitants.

"My lords, this country is little obliged to the framers and promoters of this tea-tax.† The Americans had almost forgot, in their excess of gratitude for the repeal of the Stamp Act, any interest but that of the mother country; there seemed an emulation among the different provinces, who should be most dutiful and forward in their expressions of loyalty to their real benefactor; as you will readily perceive by the following letter from Governor Bernard to a noble lord then in office.

"The House of Representatives (says he), from the time of opening the session to this day, has shown a disposition to avoid all dispute with me; everything having passed with as much good humour as I could desire. They have acted, in all things, with temper and moderation; they have avoided some subjects of dispute, and have laid a foundation for removing some causes of former altercation.

"This, my lords, was the temper of the Americans; and would have continued so, had it not been interrupted by your fruitless endeavours to tax them without their consent: but the moment they perceived your intention was renewed to tax them, under a pretence of serving the East India Company, their resentment got the ascendant of their moderation, and hurried them into actions contrary to law, which, in their cooler hours, they would have thought on with horror; for I sincerely believe, the destroying of the tea was the effect of despair.

"But, my lords, from the complexion of the whole of the proceedings, I think that Administration has purposely irritated them into those late violent acts for which they now so severely smart, purposely to be revenged on them for the victory they gained by the repeal of the Stamp Act; a measure

* By an act passed on the 31st March, 1774, the town of Boston was deprived of its privilege as a port, by way of punishment, and the business of the port transferred to Salem.

† The Stamp Act having been repealed in 1766, Mr C. Townsend, the Chancellor of the Exchequer, in 1767, proposed an indirect taxation, by subjecting to duty certain goods imported by the Americans from this country, and accordingly an Act was passed imposing duties on *glass, paper, painters' colours, and tea*, imported to the colonies from Great Britain. This Act excited great indignation in America, and caused the subsequent riots, the colonists to refusing to receive the goods from the mother country, subject to such taxation.

to which they seemingly acquiesced, but at the bottom they were its real enemies. For what other motive could induce them to dress taxation, that father of American sedition, in the robes of an East India Director, but to break in upon that mutual peace and harmony which then so happily subsisted between them and the mother country?

"My lords, I am an old man, and would advise the noble lords in office to adopt a more gentle mode of governing America: for the day is not far distant, when America may vie with these kingdoms, not only in arms, but in arts also. It is an established fact, that the principal towns in America are learned and polite, and understand the constitution of the empire as well as the noble lords who are now in office; and consequently, they will have a watchful eye over their liberties, to prevent the least encroachment on their hereditary rights.

"This observation is so recently exemplified in an excellent pamphlet, which comes from the pen of an American gentlemen, that I shall take the liberty of reading to your lordships his thoughts on the competency of the British Parliament to tax America, which, in my opinion, puts this interesting matter in the clearest view.

"'The High Court of Parliament (says he) is the supreme legislative power over the whole empire: in all free states the constitution is fixed; and as the supreme legislature derives its power and authority from the constitution, it cannot overleap the bounds of it, without destroying its own foundation. The constitution ascertains and limits both sovereignty and allegiance: and therefore his Majesty's American subjects, who acknowledge themselves bound by the ties of allegiance, have an equitable claim to the full enjoyment of the fundamental rules of the English constitution; and that it is an essential unalterable right in nature, ingrafted into the British constitution as a fundamental law, and ever held sacred and irrevocable by the subjects within the realm—that what a man has honestly acquired is absolutely his own; which he may freely give, but which cannot be taken from him without his consent.'

"This, my lords, though no new doctrine, has always been my received and unalterable opinion, and I will carry it to my grave, *that this country had no right under heaven to tax America.* It is contrary to all the principles of justice and civil policy, which neither the exigencies of the state, nor even an acquiescence in the taxes, could justify upon any occasion whatever. Such proceedings will never meet their wished-for success; and, instead of adding to their miseries, as the bill now before you most undoubtedly does, adopt some lenient measures, which may lure them to their duty; proceed like a kind and affectionate parent over a child whom he tenderly loves; and, instead of those harsh and severe proceedings, pass an amnesty on all their youthful errors; clasp them once more in your fond and affectionate arms; and I will venture to affirm, you will find them children worthy of their sire. But should their turbulence exist after your proffered terms of forgiveness, which I hope and expect this House will immediately adopt, I will be among

the foremost of your lordships to move for such measures as will effectually prevent a future relapse, and make them feel what it is to provoke a fond and forgiving parent; a parent, my lords, whose welfare has ever been my greatest and most pleasing consolation. This declaration may seem unnecessary; but I will venture to declare, the period is not far distant, when she will want the assistance of her most distant friends: but should the all-disposing hand of Providence prevent me from affording her my poor assistance, my prayers shall be ever for her welfare—'*Length of days be in her right hand, and in her left riches and honour; may her ways be ways of pleasantness, and all her paths be peace!*'"

Notwithstanding this opposition the bill was carried.

Speech on the 20th of January, 1775, on moving an address to the King to recall the troops from Boston. After strongly censuring ministers for their mal-administration and false representations of American affairs, Lord Chatham thus proceeded:—

"But as I have not the honour of access to his Majesty, I will endeavour to transmit to him, through the constitutional channel of this House, my ideas of America, to rescue him from the misadvice of his present ministers.* I congratulate your lordships that the business is at last entered upon, by the noble lord's laying the papers before you.† As I suppose your lordships too well apprised of their contents, I hope I am not premature in submitting to you my present motion:—

"'That an humble address be presented to his Majesty, humbly to desire and beseech his Majesty, that in order to open the way towards a happy settlement of the dangerous troubles in America, by beginning to allay ferments and soften animosities there; and above all, for preventing in the mean time any sudden and fatal catastrophe at Boston, now suffering under the daily irritation of an army before their eyes, posted in their town; it may graciously please his Majesty that immediate orders be despatched to General Gage,‡ for removing his Majesty's forces from the town of Boston, as soon as the rigour of the season, and other circumstances indispensable to the safety and accommodation of the said troops, may render the same practicable.'

"I wish, my lords, not to lose a day in this urgent, pressing crisis; an hour now lost in allaying ferments in America, may produce years of calamity; for my own part, I will not desert, for a moment, the conduct of this weighty business, from the first to the last; unless nailed to my bed by the extremity of sickness, I will give it unremitted attention; I will knock

* Lord North and his administration.

† On the meeting of Parliament after the holidays, Lord Dartmouth, the secretary of state for American affairs, laid the official documents relating to America before the House.

‡ Four regiments had been sent out under General Gage, governor of the province of Boston, and commander-in-chief of the army.

at the door of this sleeping and confounded ministry, and will rouse them to a sense of their important danger.

"When I state the importance of the colonies to this country, and the magnitude of danger hanging over this country, from the present plan of mis-administration practised against them, I desire not to be understood to argue for a reciprocity of indulgence between England and America. I contend not for indulgence, but justice to America; and I shall ever contend, that the Americans justly owe obedience to us in a limited degree—they owe obedience to our ordinances of trade and navigation; but let the line be skilfully drawn between the objects of those ordinances, and their private, internal property; let the sacredness of their property remain inviolate; let it be taxable only by their own consent, given in their provincial assemblies, else it will cease to be property. As to the metaphysical refinements, attempting to show that the Americans are equally free from obedience and commercial restraints, as from taxation for revenue, as being unrepresented here; I pronounce them futile, frivolous, and groundless.

"When I urge this measure of recalling the troops from Boston, I urge it on this pressing principle, that it is necessarily preparatory to the restoration of your peace, and the establishment of your prosperity. It will then appear that you are disposed to treat amicably and equitably; and to consider, revise, and repeal, if it should be found necessary, as I affirm it will, those violent acts and declarations which have disseminated confusion throughout your empire.

"Resistance to your acts was necessary as it was just; and your vain declarations of the omnipotence of Parliament, and your imperious doctrines of the necessity of submission, will be found equally impotent to convince or to enslave your fellow-subjects in America, who feel that tyranny, whether *ambitioned* by an individual part of the legislature, or the bodies who compose it, is equally intolerable to British subjects.

"The means of enforcing this thraldom are found to be as ridiculous and weak in practice, as they are unjust in principle. Indeed I cannot but feel the most anxious sensibility for the situation of General Gage, and the troops under his command: thinking him, as I do, a man of humanity and understanding, and entertaining, as I ever will, the highest respect, the warmest love, for the British troops. Their situation is truly unworthy; penned up—pining in inglorious inactivity. They are an army of impotence. You may call them an army of safety and of guard; but they are in truth an army of impotence and contempt;—and, to make the folly equal to the disgrace, they are an army of irritation and vexation.

"But I find a report creeping abroad, that ministers censure General Gage's inactivity: let them censure him; it becomes them; it becomes their justice and their honour. I mean not to censure his inactivity; it is a prudent and necessary inaction; but it is a miserable condition, where disgrace is prudence, and where it is necessary to be contemptible. This tameness, however contemptible, cannot be censured, for the first drop of blood shed in civil and unnatural war might be *immedicabile vulnus.*

"I therefore urge and conjure your lordships, immediately to adopt this conciliating measure. I will pledge myself for its immediately producing conciliatory effects, by its being thus well-timed; but if you delay till your vain hope shall be accomplished, of triumphantly dictating reconciliation, you delay for ever. But, admitting that this hope, which in truth is desperate, should be accomplished, what do you gain by the imposition of your victorious amity?—you will be untrusted and unthanked. Adopt, then, the grace, while you have the opportunity of reconcilement—or, at least, prepare the way. Allay the ferment prevailing in America, by removing the obnoxious, hostile cause—obnoxious and unserviceable, for their merit can only be in inaction: '*Non dimicare et vincere*,'—their victory can never be by exertions. Their force would be most disproportionately exerted against a brave, generous, and united people, with arms in their hands, and courage in their hearts;—three millions of people, the genuine descendants of a valiant and pious ancestry, driven to those deserts by the narrow maxims of a superstitious tyranny. And is the spirit of persecution never to be appeased? Are the brave sons of those brave forefathers to inherit their sufferings, as they have inherited their virtues? Are they to sustain the infliction of the most oppressive and unexampled severity, beyond the accounts of history, or description of poetry? '*Rhadamanthus habet durissima regna, castigatque, auditque.*' * So says the wisest poet, and perhaps the wisest statesman and politician. But our ministers say, the Americans must not be heard. They have been condemned unheard. The indiscriminate hand of vengeance has lumped together innocent and guilty; with all the formalities of hostility has blocked up the town † and reduced to beggary and famine thirty thousand inhabitants.

"But his Majesty is advised, that the union in America cannot last. Ministers have more eyes than I, and should have more ears; but with all the information I have been able to procure, I can pronounce it—an union, solid, permanent, and effectual. Ministers may satisfy themselves, and delude the public, with the report of what they call commercial bodies in America. They are not commercial; they are your packers and factors: they live upon nothing—for I call commission nothing. I mean the ministerial authority for this American intelligence; the runners for government, who are paid for their intelligence. But these are not the men, nor this the influence, to be considered in America, when we estimate the firmness of their union. Even to extend the question, and to take in the really mercantile circle, will be totally inadequate to the consideration. Trade, indeed, increases the wealth and glory of a country; but its real strength and stamina are to be looked for among the cultivators of the land; in their simplicity of life is found the simpleness of virtue—the integrity and courage of freedom. These true, genuine sons of the earth are invincible; and they surround and hem in the mercantile bodies; even if these bodies, which supposition I totally dis-

* Virgil, Æneid, vi. 566. † Boston.

claim, could be supposed disaffected to the cause of liberty. Of this general spirit existing in the British nation (for so I wish to distinguish the real and genuine Americans from the pseudo-traders I have described)—of this spirit of independence, animating the nation of America, I have the most authentic information. It is not new among them; it is, and has ever been, their established principle, their confirmed persuasion; it is their nature, and their doctrine.

"I remember, some years ago, when the repeal of the Stamp Act was in agitation, conversing in a friendly confidence with a person of undoubted respect and authenticity, on that subject; and he assured me, with a certainty which his judgment and opportunity gave him, that these were the prevalent and steady principles of America—that you might destroy their towns, and cut them off from the superfluities, perhaps the conveniences of life; but that they were prepared to despise your power, and would not lament their loss, whilst they have—what, my lords?—their woods and their liberty. The name of my authority,* if I am called upon, will authenticate the opinion irrefragably.

"If illegal violences have been, as it is said, committed in America, prepare the way, open the door of possibility, for acknowledgment and satisfaction; but proceed not to such coercion, such proscription; cease your indiscriminate inflictions; amerce not thirty thousand; oppress not three millions, for the fault of forty or fifty. Such severity of injustice must for ever render incurable the wounds you have already given your colonies: you irritate them to unappeasable rancour. What, though you march from town to town, and from province to province—though you should be able to enforce a temporary and local submission, which I only suppose, not admit—how shall you be able to secure the obedience of the country you leave behind you in your progress, to grasp the dominion of eighteen hundred miles of continent, populous in numbers, possessing valour, liberty, and resistance?

"This resistance to your arbitrary system of taxation might have been foreseen; it was obvious from the nature of things, and of mankind; and, above all, from the whiggish spirit flourishing in that country. The spirit which now resists your taxation in America, is the same which formerly opposed loans, benevolences, and ship-money, in England; the same spirit which called all England on its legs, and, by the Bill of Rights, vindicated the English constitution; the same spirit which established the great, fundamental, essential maxim of your liberties, that 'no subject of England shall be taxed but by his own consent.'

"This glorious spirit of whiggism animates three millions in America; who prefer poverty with liberty, to gilded chains and sordid affluence; and who will die in defence of their rights as men, as freemen. What shall oppose this spirit, aided by the congenial flame glowing in the breast of every whig in England, to the amount, I hope, of double the American numbers? Ire-

* Dr Franklin.

land they have to a man. In that country, joined as it is with the cause of the colonies, and placed at their head, the distinction I contend for is and must be observed. This country superintends and controls their trade and navigation; but they tax themselves. And this distinction between external and internal control is sacred and insurmountable: it is involved in the abstract nature of things. Property is private, individual, absolute. Trade is an extended and complicated consideration; it reaches as far as ships can sail or winds can blow: it is a great and various machine. To regulate the numberless movements of its several parts, and combine them into effect, for the good of the whole, requires the superintending wisdom and energy of the supreme power in the empire. But this supreme power has no effect towards internal taxation; for it does not exist in that relation: there is no such thing, no such idea in this constitution, as a supreme power operating upon property. Let this distinction then remain for ever ascertained; taxation is theirs, commercial regulation is ours. As an American I would recognise to England her supreme right of regulating commerce and navigation: as an Englishman by birth and principle, I recognise to the Americans their supreme unalienable right in their property; a right which they are justified in the defence of to the last extremity. To maintain this principle, is the common cause of the whigs on the other side of the Atlantic, and on this. 'Tis liberty to liberty engaged,' that they will defend themselves, their families, and their country. In this great cause they are immoveably allied: it is the alliance of God and nature—immutable, eternal—fixed as the firmament of heaven.

"To such united force, what force shall be opposed? What, my lords? A few regiments in America, and seventeen or eighteen thousand men at home! The idea is too ridiculous to take up a moment of your lordships' time. Nor can such a national and principled union be resisted by the tricks of office, or ministerial manœuvre. Laying of papers on your table, or counting numbers on a division, will not avert or postpone the hour of danger: it must arrive, my lords, unless these fatal acts are done away; it must arrive in all its horrors, and then these boastful ministers, spite of all their confidence and all their manœuvres, shall be forced to hide their heads. They shall be forced to a disgraceful abandonment of their present measures and principles, which they avow, but cannot defend: measures which they presume to attempt, but cannot hope to effectuate. They cannot, my lords, they cannot stir a step; they have not a move left; they are check-mated.

"But it is not repealing this act of Parliament, it is not repealing a piece of parchment, that can restore America to our bosom; you must repeal her fears and her resentments: and you may then hope for her love and gratitude. But now, insulted with an armed force, posted at Boston; irritated with a hostile array before her eyes, her concessions, if you could force them, would be suspicious and insecure; they will be *irato animo;* they will not be the sound, honourable passions of freemen; they will be the dictates of fear, and extortions of force. But it is more than evident, that

you cannot force them, unprincipled and united as they are, to your unworthy terms of submission—it is impossible: and when I hear General Gage censured for inactivity, I must retort with indignation on those whose intemperate measures and improvident counsels have betrayed him into his present situation. His situation reminds me, my lords, of the answer of a French general in the civil wars of France—Monsieur Condé opposed to Monsieur Turenne; he was asked, how it happened that he did not take his adversary prisoner, as he was often very near him: 'J'ai peur,' replied Condé, very honestly, 'J'ai peur qu'il ne me prenne;'—I'm afraid he'll take me.

"When your lordships look at the papers transmitted us from America; when you consider their decency, firmness, and wisdom, you cannot but respect their cause, and wish to make it your own. For myself, I must declare and avow, that in all my reading and observation—and it has been my favourite study—I have read Thucydides, and have studied and admired the master-states of the world—that for solidity of reasoning, force of sagacity, and wisdom of conclusion, under such a complication of difficult circumstances, no nation, or body of men, can stand in preference to the general Congress at Philadelphia. I trust it is obvious to your lordships, that all attempts to impose servitude upon such men, to establish despotism over such a mighty continental nation, must be vain, must be fatal. We shall be forced ultimately to retract; let us retract while we can, not when we must. I say we must necessarily undo these violent oppressive acts:* they must be repealed;—you will repeal them; I pledge myself for it, that you will in the end repeal them: I stake my reputation on it. I will consent to be taken for an idiot, if they are not finally repealed. Avoid, then, this humiliating, disgraceful necessity. With a dignity becoming your exalted situation, make the first advances to concord, to peace, and happiness; for that is your true dignity, to act with prudence and justice. That you should first concede, is obvious, from sound and rational policy. Concession comes with better grace and more salutary effect from superior power; it reconciles superiority of power with the feelings of men, and establishes solid confidence on the foundations of affection and gratitude.

"So thought a wise poet and a wise man in political sagacity; the friend of Mæcenas, and the eulogist of Augustus. To him, the adopted son and successor of the first Cæsar, to him, the master of the world, he wisely urged this conduct of prudence and dignity:—

> "'Tuque prior, tu, parce; genus qui ducis Olympo;
> Projice tela manu.'†

"Every motive, therefore, of justice and of policy, of dignity and of prudence, urges you to allay the ferment in America by a removal of your troops from Boston, by a repeal of your acts of parliament, and by demonstration

* For shutting up the port of Boston, altering the charter of Massachusetts Bay, &c.

† Virgil, Æneid, vi. 834.

of amicable dispositions towards your colonies. On the other hand, every danger and every hazard impend, to deter you from perseverance in your present ruinous measures. Foreign war hanging over your heads by a slight and brittle thread; France and Spain watching your conduct, and waiting for the maturity of your errors, with a vigilant eye to America and the temper of your colonies, more than to their own concerns, be they what they may.

"To conclude, my lords: if the ministers thus persevere in misadvising and misleading the King, I will not say that they can alienate the affections of his subjects from his crown, but I will affirm that they will make the crown not worth his wearing. I will not say that the King is betrayed, but I will pronounce that the kingdom is undone."

The motion was negatived.

SPEECH in support of an amendment to the address to the King, on his Majesty's speech on the opening of Parliament, on the 20th November, 1777.

"I rise, my lords, to declare my sentiments on this most solemn and serious subject. It has imposed a load upon my mind, which, I fear, nothing can remove; but which impels me to endeavour its alleviation, by a free and unreserved communication of my sentiments.

"In the first part of the address, I have the honour of heartily concurring with the noble earl* who moved it. No man feels sincerer joy than I do; none can offer more genuine congratulation on every accession of strength to the Protestant succession; I therefore join in every congratulation on the birth of another princess, and the happy recovery of her Majesty. But I must stop here; my courtly complaisance will carry me no further: I will not join in congratulation on misfortune and disgrace; I cannot concur in a blind and servile address, which approves, and endeavours to sanctify, the monstrous measures that have heaped disgrace and misfortune upon us—that have brought ruin to our doors. This, my lords, is a perilous and tremendous moment! It is not a time for adulation. The smoothness of flattery cannot now avail—cannot save us in this rugged and awful crisis. It is now necessary to instruct the throne in the language of truth. We must dispel the delusion and the darkness which envelop it; and display, in its full danger and true colours, the ruin that is brought to our doors.

"This, my lords, is our duty; it is the proper function of this noble assembly, sitting, as we do, upon our honours in this house, the hereditary council of the Crown. And *who* is the minister—*where* is the minister, that has dared to suggest to the throne the contrary, unconstitutional language, this day delivered from it? The accustomed language from the throne has been application to Parliament for advice, and a reliance on its constitutional advice and assistance; as it is the right of Parliament to give, so it is the duty of the Crown to ask it. But, on this day, and in this extreme momen-

* Lord Carlisle.

tous exigency, no reliance is reposed on our constitutional counsels! no advice is asked from the sober and enlightened care of Parliament! but the Crown, from itself, and by itself, declares an unalterable determination to pursue measures—and what measures, my lords?—the measures that have produced the imminent perils that threaten us; the measures that have brought ruin to our doors.

"Can the minister of the day now presume to expect a continuance of support in this ruinous infatuation? Can Parliament be so dead to its dignity and its duty, as to be thus deluded into the loss of the one and the violation of the other? to give an unlimited credit and support for the *steady* perseverance in measures—that is the word and the conduct, proposed for our parliamentary advice, but dictated and forced upon us—in measures, I say, my lords, which have reduced this late flourishing empire to ruin and contempt? 'But yesterday, and England might have stood against the world: now, none so poor to do her reverence.' I use the words of a poet; but though it be poetry, it is no fiction. It is a shameful truth, that not only the power and strength of this country are wasting away and expiring, but her well-earned glories, her true honour, and substantial dignity, are sacrificed. France, my lords, has insulted you; she has encouraged and sustained America; and whether America be wrong or right, the dignity of this country ought to spurn at the officious insult of French interference. The ministers and ambassadors of those who are called rebels and enemies, are in Paris; in Paris they transact the reciprocal interests of America and France. Can there be a more mortifying insult? Can even our ministers sustain a more humiliating disgrace? Do they dare to resent it? Do they presume even to hint a vindication of their honour, and the dignity of the state, by requiring the dismissal of the plenipotentiaries of America? Such is the degradation to which they have reduced the glories of England! The people whom they affect to call contemptible rebels, but whose growing power has at last obtained the name of enemies; the people with whom they have engaged this country in war, and against whom they now command our implicit support in every measure of desperate hostility: this people, despised as rebels or acknowledged as enemies, are abetted against you, supplied with every military store, their interests consulted, and their ambassadors entertained, by your inveterate enemy; and our ministers dare not interpose with dignity or effect! Is this the honour of a great kingdom? Is this the indignant spirit of England, who, 'but yesterday,' gave law to the house of Bourbon? My lords, the dignity of nations demands a decisive conduct in a situation like this. Even when the greatest prince that perhaps this country ever saw, filled our throne, the requisition of a Spanish general, on a similar subject, was attended to, and complied with; for on the spirited remonstrance of the Duke of Alva, Elizabeth found herself obliged to deny the Flemish exiles all countenance, support, or even entrance into her dominions; and the Count le Marque, with his few desperate followers, was expelled the kingdom. Happening to arrive at the Brille, and finding it weak in defence, they made

themselves masters of the place: and this was the foundation of the United Provinces.

"My lords, this ruinous and ignominious situation, where we cannot act with success, nor suffer with honour, calls upon us to remonstrate in the strongest and loudest language of truth, to rescue the ear of Majesty from the delusions which surround it. The desperate state of our arms abroad is in part known; no man thinks more highly of them than I do: I love and honour the English troops: I know their virtues and their valour: I know they can achieve anything except impossibilities; and I know that the conquest of English America *is an impossibility*. You cannot, I venture to say it—YOU CANNOT conquer America. Your armies last war effected everything that could be effected; and what was it? It cost a numerous army, under the command of a most able general, now a noble lord* in this house, a long and laborious campaign, to expel five thousand Frenchmen from French America. My lords, you cannot conquer America. What is your present situation there? We do not know the worst; but we know that in three campaigns we have done nothing, and suffered much. Besides the sufferings, perhaps total loss, of the Northern force,† the best appointed army that ever took the field, commanded by Sir William Howe, has retired from the American lines; he was obliged to relinquish his attempt, and, with great delay and danger, to adopt a new and distant plan of operations. We shall soon know, and in any event have reason to lament, what may have happened since. As to conquest, therefore, my lords, I repeat, it is impossible. You may swell every expense and every effort still more extravagantly; pile and accumulate every assistance you can buy or borrow; traffic and barter with every little pitiful German prince, that sells and sends his subjects to the shambles of a foreign prince: your efforts are for ever vain and impotent—doubly so from this mercenary aid on which you rely; for it irritates, to an incurable resentment, the minds of your enemies—to overrun them with the mercenary sons of rapine and plunder; devoting them and their possessions to the rapacity of hireling cruelty! If I were an American, as I am an Englishman, while a foreign troop was landed in my country, I never would lay down my arms—never—never—never.

"Your own army is infected with the contagion of these illiberal allies. The spirit of plunder and of rapine is gone forth among them. I know it; and, notwithstanding what the noble earl, who moved the address, has given as his opinion of our American army, I know from authentic information and the most experienced officers, that our discipline is deeply wounded. Whilst this is notoriously our sinking situation, America grows and flourishes; whilst our strength and discipline are lowered, theirs are rising and improving.

"But, my lords, who is the man, that, in addition to these disgraces and mischiefs of our army, has dared to authorise and associate to our arms the

* Lord Amherst. † General Burgoyne's army.

tomahawk and scalping-knife of the savage ;—to call into civilised alliance the wild and inhuman savage of the woods ;—to delegate to the merciless Indian the defence of disputed rights—and to wage the horrors of his barbarous war against our brethren ? My lords, these enormities cry aloud for redress and punishment : unless thoroughly done away, it will be a stain on the national character. It is a violation of the constitution. I believe it is against law. It is not the least of our national misfortunes, that the strength and character of our army are thus impaired: infected with the mercenary spirit of robbery and rapine, familiarised to the horrid scenes of savage cruelty, it can no longer boast of the noble and generous principles which dignify a soldier—no longer sympathise with the dignity of the royal banner, nor feel the pride, pomp, and circumstance of glorious war, "that make ambition virtue." What makes ambition virtue ? The sense of honour. But is the sense of honour consistent with a spirit of plunder, or the practice of murder ? Can it flow from mercenary motives, or can it prompt to cruel deeds ? Besides these murderers and plunderers, let me ask our ministers, what other allies have they acquired ? What other powers have they associated to their cause ? Have they entered into alliance with the king of the gipsies ? Nothing, my lords, is too low or too ludicrous to be consistent with their counsels.

"The independent views of America have been stated and asserted as the foundation of this address. My lords, no man wishes more for the due dependence of America on this country than I do. To preserve it, and not confirm that state of independence into which your measures hitherto have driven them, is the object which we ought to unite in attaining. The Americans, contending for their rights against the arbitrary exactions, I love and admire : it is the struggle of free and virtuous patriots ; but, contending for independency and total disconnexion from England, as an Englishman, I cannot wish them success ; for, in a due constitutional dependency, including the ancient supremacy of this country in regulating their commerce and navigation, consists the mutual happiness and prosperity both of England and America. She derived assistance and protection from us, and we reaped from her the most important advantages : she was, indeed, the fountain of our wealth, the nerve of our strength, the nursery and basis of our naval power. It is our duty, therefore, my lords, if we wish to save our country, most seriously to endeavour the recovery of these most beneficial subjects ; and in this perilous crisis, perhaps the present moment may be the only one in which we can hope for success ; for in their negotiations with France, they have, or think they have, reason to complain ; though it be notorious that they have received from that power important supplies and assistance of various kinds, yet it is certain they expected it in a more decisive and immediate degree. America is in ill-humour with France on some points that have not entirely answered her expectations : let us wisely take advantage of every possible moment of reconciliation. Besides, the natural disposition of America herself still leans towards England—to the old habits of

connexion and mutual interest that united both countries. This was the established sentiment of all the continent; and still, my lords, in the great and principal part, the sound part of America, this wise and affectionate disposition prevails. And there is a very considerable part of America yet sound—the middle and the southern provinces. Some parts may be factious and blind to their true interests, but if we express a wise and benevolent disposition to communicate with them those immutable rights of nature, and those constitutional liberties, to which they are equally entitled with ourselves, by a conduct so just and humane we shall confirm the favourable and conciliate the adverse. I say, my lords, the rights and liberties to which they are equally entitled with ourselves, but no more. I would participate to them every enjoyment and freedom which the colonising subjects of a free state can possess, or wish to possess; and I do not see why they should not enjoy every fundamental right in their property, and every original substantial liberty which Devonshire or Surrey, or the county I live in, or any other county in England, can claim—reserving always, as the sacred right of the mother country, the due constitutional dependency of the colonies. The inherent supremacy of the state in regulating and protecting the navigation and commerce of all her subjects, is necessary for the mutual benefit and preservation of every part, to constitute and preserve the prosperous arrangement of the whole empire.

"The sound parts of America, of which I have spoken, must be sensible of these great truths, and of their real interests. America is not in that state of desperate and contemptible rebellion which this country has been deluded to believe. It is not a wild and lawless banditti, who, having nothing to lose, might hope to snatch something from public convulsions; many of their leaders and great men have a great stake in this great contest:—the gentleman who conducts their armies,* I am told, has an estate of four or five thousand pounds a year: and when I consider these things, I cannot but lament the inconsiderate violence of our penal acts, our declarations of treason and rebellion, with all the fatal effects of attainder and confiscation.

"As to the disposition of foreign powers, which is asserted to be pacific and friendly, let us judge, my lords, rather by their actions and the nature of things, than by interested assertions. The uniform assistance supplied to America by France suggests a different conclusion: the most important interests of France, in aggrandising and enriching herself with what she most wants, supplies of every naval store from America, must inspire her with different sentiments. The extraordinary preparations of the House of Bourbon, by land and by sea, from Dunkirk to the Straits, equally ready and willing to overwhelm these defenceless islands, should rouse us to a sense of their real disposition and our own danger. Not five thousand troops in England!—hardly three thousand in Ireland! What can we oppose to the combined force of our enemies? Scarcely twenty ships of the line fully or sufficiently

* George Washington, who was a native of Virginia, of considerable fortune.

manned, that any Admiral's reputation would permit him to take the command of. The river of Lisbon in the possession of our enemies!—The seas swept by American privateers; our channel torn to pieces by them! In this complicated crisis of danger, weakness at home and calamity abroad, terrified and insulted by the neighbouring powers,—unable to act in America, or acting only to be destroyed;—where is the man with the forehead to promise or hope for success in such a situation, or from perseverance in the measures that have driven us to it? Who has the forehead to do so? Where is that man? I should be glad to see his face.

"You cannot *conciliate* America by your present measures; you cannot *subdue* her by your present, or by any measures. What, then, can we do? You cannot conquer, you cannot gain, but you can *address;* you can lull the fears and anxieties of the moment into an ignorance of the danger that should produce them. But, my lords, the time demands the language of truth: we must not now apply the flattering unction of servile compliance, or blind complaisance. In a just and necessary war, to maintain the rights or honour of my country, I would strip the shirt from my back to support it. But in such a war as this, unjust in its principle, impracticable in its means, and ruinous in its consequences, I would not contribute a single effort, nor a single shilling. I do not call for vengeance on the heads of those who have been guilty; I only recommend to them to make their retreat: let them walk off; and let them make haste, or they may be assured that speedy and condign punishment will overtake them.

"My lords, I have submitted to you, with the freedom and truth which I think my duty, my sentiments on your present awful situation. I have laid before you the ruin of your power, the disgrace of your reputation, the pollution of your disciplines, the contamination of your morals, the complication of calamities, foreign and domestic, that overwhelm your sinking country. Your dearest interests, your own liberties, the Constitution itself, totters to the foundation. All this disgraceful danger, this multitude of misery, is the monstrous offspring of this unnatural war. We have been deceived and deluded too long: let us now stop short: this is the crisis—may be the only crisis, of time and situation, to give us a possibility of escape from the fatal effects of our delusions. But if, in an obstinate and infatuated perseverance in folly, we meanly echo back the peremptory words this day presented to us, nothing can save this devoted country from complete and final ruin. We madly rush into multiplied miseries and 'confusion worse confounded.'

"Is it possible, can it be believed, that ministers are yet blind to this impending destruction? I did hope, that instead of this false and empty vanity, this overweening pride, engendering high conceits and presumptuous imaginations—that ministers would have humbled themselves in their errors, would have confessed and retracted them, and by an active, though a late repentance, have endeavoured to redeem them. But, my lords, since they had neither sagacity to foresee, nor justice nor humanity to shun, these oppressive calamities; since not even severe experience can make them feel,

nor the imminent ruin of their country awaken them from their stupefaction, the guardian care of Parliament must interpose. I shall therefore, my lords, propose to you an amendment to the address to his Majesty, to be inserted immediately after the two first paragraphs of congratulation on the birth of a princess: to recommend an immediate cessation of hostilities, and the commencement of a treaty to restore peace and liberty to America, strength and happiness to England, security and permanent prosperity to both countries. This, my lords, is yet in our power; and let not the wisdom and justice of your lordships neglect the happy, and, perhaps, the only opportunity. By the establishment of irrecoverable law, founded on mutual rights, and ascertained by treaty, these glorious enjoyments may be firmly perpetuated. And let me repeat to your lordships, that the strong bias of America, at least of the wise and sounder parts of it, naturally inclines to this happy and constitutional re-connexion with you. Notwithstanding the temporary intrigues with France, we may still be assured of their ancient and confirmed partiality to us. America and France cannot be congenial; there is something decisive and confirmed in the honest American, that will not assimilate to the futility and levity of Frenchmen.

"My lords, to encourage and confirm that innate inclination to this country, founded on every principle of affection, as well consideration of interest—to restore that favourable disposition into a permanent and powerful re-union with this country—to revive the mutual strength of the empire;—again, to awe the House of Bourbon, instead of meanly truckling, as our present calamities compel us, to every insult of French caprice and Spanish punctilio—to re-establish our commerce—to re-assert our rights and our honour—to confirm our interests, and renew our glories for ever (a consummation most devoutly to be endeavoured! and which, I trust, may yet arise from reconciliation with America)—I have the honour of submitting to you the following amendment; which I move to be inserted after the two first paragraphs of the address:—

"'And that this House does most humbly advise and supplicate his Majesty, to be pleased to cause the most speedy and effectual measures to be taken, for restoring peace in America; and that no time may be lost in proposing an immediate cessation of hostilities there, in order to the opening a treaty for the final settlement of the tranquillity of these invaluable provinces, by a removal of the unhappy causes of this ruinous civil war, and by a just and adequate security against the return of the like calamities in times to come. And this House desire to offer the most dutiful assurances to his Majesty, that they will, in due time, cheerfully co-operate with the magnanimity and tender goodness of his Majesty, for the preservation of his people, by such explicit and most solemn declarations, and provisions of fundamental and irrevocable laws, as may be judged necessary for the ascertaining and fixing for ever the respective rights of Great Britain and her colonies.'"

The amendment was negatived.

[Lord Suffolk having, in the progress of the debate, defended the employ-

ment of the Indians, saying that "it was perfectly justifiable to use all the means that God and nature put into our hands," Lord Chatham exclaimed:—]

"I am astonished!—shocked! to hear such principles confessed—to hear them avowed in this House, or in this country: principles equally unconstitutional, inhuman, and unchristian!

"My lords, I did not intend to have encroached again upon your attention: but I cannot repress my indignation—I feel myself impelled by every duty. My lords, we are called upon as members of this House, as men, as Christian men, to protest against such notions standing near the throne, polluting the ear of Majesty. 'That God and nature put into our hands!' I know not what ideas that lord may entertain of God and nature; but I know, that such abominable principles are equally abhorrent to religion and humanity. What! to attribute the sacred sanction of God and nature to the massacres of the Indian scalping knife—to the cannibal savage torturing, murdering, roasting, and eating; literally, my lords, eating the mangled victims of his barbarous battles! Such horrible notions shock every precept of religion, divine or natural, and every generous feeling of humanity. And, my lords, they shock every sentiment of honour; they shock me as a lover of honourable war, and a detester of murderous barbarity.

"These abominable principles, and this more abominable avowal of them, demand the most decisive indignation. I call upon that right reverend bench, those holy ministers of the gospel and pious pastors of our church, I conjure them to join in the holy work, and vindicate the religion of their God: I appeal to the wisdom and the law of this learned bench, to defend and support the justice of their country: I call upon the bishops, to interpose the unsullied sanctity of their lawn;—upon the learned judges, to interpose the purity of their ermine, to save us from this pollution: I call upon the honour of your lordships, to reverence the dignity of your ancestors, and to maintain your own: I call upon the spirit and humanity of my country, to vindicate the national character: I invoke the genius of the constitution. From the tapestry that adorns these walls, the immortal ancestor of this noble lord* frowns with indignation at the disgrace of his country. In vain he led your victorious fleets against the boasted Armada of Spain; in vain he defended and established the honour, the liberties, the religion, the Protestant religion of this country, against the arbitrary cruelties of Popery and the Inquisition, if these more than popish cruelties and inquisitorial practices are let loose among us; to turn forth into our settlements, among our ancient connexions, friends, and relations, the merciless cannibal, thirsting for the blood of man, woman, and child! to send forth the infidel savage—against whom?—against your Protestant brethren! to lay waste their country, to desolate their dwellings, and extirpate their race and name, with these horrible hell-hounds of savage war!—hell-hounds, I say, of savage war. Spain armed herself with bloodhounds to extirpate the wretched natives of America; and we improve

* Lord Effingham Howard, the Admiral of England at the time of the Spanish Armada, represented on tapestry, in the old House of Lords.

on the inhuman example even of Spanish cruelty: we turn loose these savage hell-hounds against our brethren and countrymen in America, of the same language, laws, liberties, and religion; endeared to us by every tie that should sanctify humanity.

"My lords, this awful subject, so important to our honour, our constitution, and our religion, demands the most solemn and effectual inquiry. And I again call upon your lordships, and the united powers of the state, to examine it thoroughly and decisively, and to stamp upon it an indelible stigma of the public abhorrence. And I again implore those holy prelates of our religion, to do away these iniquities from among us. Let them perform a lustration; let them purify this House, and this country, from this sin.

"My lords, I am old and weak, and at present unable to say more; but my feelings and indignation were too strong to have said less. I could not have slept this night in my bed, nor reposed my head on my pillow, without giving this vent to my eternal abhorrence of such preposterous and enormous principles."

Speech on the 11th December, 1777, in opposition to a motion to adjourn the House till the 20th of January, 1778.

"My Lords,

"It is not with less grief than astonishment I hear the motion now made by the noble earl, at a time when the affairs of this country present, on every side, prospects full of awe, terror, and impending danger; when, I will be bold to say, events of a most alarming tendency, little expected or foreseen, will shortly happen; when a cloud, that may crush this nation, and bury it in destruction for ever, is ready to burst and overwhelm us in ruin. At so tremendous a season, it does not become your lordships, the great hereditary council of the nation, to neglect your duty; to retire to your country seats for six weeks, in quest of joy and merriment, while the real state of public affairs call for grief, mourning, and lamentation—at least, for the fullest exertions of your wisdom. It is your duty, my lords, as the grand hereditary council of the nation, to advise your Sovereign—to be the protectors of your country—to feel your own weight and authority. As hereditary counsellors, as members of this House, you stand between the Crown and the people; you are nearer the throne than the other branch of the legislature; it is your duty to surround and protect, to counsel and supplicate it; you hold the balance, your duty is to see that the weights are properly poised, that the balance remains even, that neither may encroach on the other; and that the executive power may be prevented, by an unconstitutional exertion of even constitutional authority, from bringing the nation to destruction. My lords, I fear we are arrived at the very brink of that state; and I am persuaded, that nothing short of a spirited interposition on your part, in giving speedy and wholesome advice to your Sovereign, can prevent the people from feeling beyond remedy the full effects of that ruin which ministers

have brought upon us. These are the calamitous circumstances ministers have been the cause of; and shall we, in such a state of things, when every moment teems with events productive of the most fatal narratives—shall we trust, during an adjournment of six weeks, to those men who have brought those calamities upon us, when, perhaps, our utter overthrow is plotting, nay, ripe for execution, without almost a possibility of prevention? Ten thousand brave men have fallen victims to ignorance and rashness. The only army you have in America may, by this time, be no more. This very nation remains no longer safe than its enemies think proper to permit. I do not augur ill. Events of a most critical nature may take place before our next meeting. Will your lordships, then, in such a state of things, trust to the guidance of men who, in every single step of this cruel, this wicked war, from the very beginning, have proved themselves weak, ignorant, and mistaken? I will not say, my lords, nor do I mean anything personal, or that they have brought premeditated ruin on this country. I will not suppose that they foresaw what has since happened; but I do contend, my lords, that their guilt (I will not suppose it guilt), but their want of wisdom, their incapacity, their temerity in depending on their own judgment, or their base compliances with the orders and dictates of others, perhaps caused by the influence of one or two individuals, have rendered them totally unworthy of your lordships' confidence, of the confidence of Parliament, and of those whose rights they are the constitutional guardians of—the people at large. A remonstrance, my lords, should be carried to the throne. The King has been deluded by his ministers. They have been imposed upon by false information, or have, from motives best known to themselves, given apparent credit to what they were convinced in their hearts was untrue. The nation has been betrayed into the ruinous measure of an American war, by the arts of imposition, by their own credulity, through the means of false hopes, false pride, and promised advantages, of the most romantic and improbable nature. My lords, I do not wish to call your attention entirely to that point. I would fairly appeal to your own sentiments, whether I can be justly charged with arrogance or presumption, if I said, great and able as ministers think themselves, that all the wisdom of the nation is confined to the narrow circle of the petty cabinet. I might, I think, without presumption, say, that your lordships, as one of the branches of the legislature, may be as capable of advising your Sovereign, in the moment of difficulty and danger, as any lesser council, composed of a fewer number; and who, being already so fatally trusted, have betrayed a want of honesty, or a want of talents. Is it, my lords, within the utmost stretch of the most sanguine expectation, that the same men who have plunged you into your present perilous and calamitous situation, are the proper persons to rescue you from it? No, my lords, such an expectation would be preposterous and absurd. I say, my lords, you are now specially called upon to interpose. It is your duty to forego every call of business and pleasure; to give up your whole time to inquire into past misconduct; to provide remedies for the present; to prevent future evils; to *rest on your*

arms, if I may use the expression, to watch for the public safety; to defend and support the throne; and, if fate should so ordain it, to fall with becoming fortitude with the rest of your fellow-subjects in the general ruin. I fear this last must be the event of this mad, unjust, and cruel war. It is your lordships' duty to do everything in your power that it shall not; but, if it must be so, I trust your lordships and the nation will fall gloriously.

"My lords, as the first and most immediate object of your inquiry, I would recommend to you to consider the true state of our home defence. We have heard much from a noble lord in this House of the state of our navy. I cannot give an implicit belief to what I have heard on that important subject. I still retain my former opinion relative to the number of line-of-battle ships; but as an inquiry into the real state of the navy is destined to be the subject of a future consideration, I do not wish to hear more about it till that period arrives. I allow, in argument, that we have thirty-five ships of the line fit for actual service. I doubt much whether such a force would give us a full command of the Channel. I am certain, if it did, every other part of our possessions must lie naked and defenceless, in every quarter of the globe. I fear our utter destruction is at hand. What, my lords, is the state of our military defence? I would not wish to expose our present weakness; but weak as we are, if this war should be continued, as the public declaration of persons in high confidence with their Sovereign would induce us to suppose, is this nation to be entirely stripped? And if it should, would every soldier now in Britain be sufficient to give us an equality to the force in America? I will maintain they would not. Where, then, will men be procured? Recruits are not to be had in this country. Germany will give no more. I have read in the newspapers of this day, and I have reason to believe it to be true, that the head of the Germanic body has remonstrated against it, and has taken measures accordingly to prevent it. Ministers have, I hear, applied to the Swiss cantons. The idea is preposterous! The Swiss never permit their troops to go beyond sea. But, my lords, if even men were to be procured in Germany, how will you march them to the water side? Have not our ministers applied for the port of Embden, and has it not been refused? I say, you will not be able to procure men even for your home defence, if some immediate steps be not taken. I remember, during the last war it was thought advisable to levy independent companies: they were, when completed, formed into battalions, and proved of great service. I love the army; I know its use; but I must nevertheless own, that I was a great friend to the measure of establishing a national militia. I remember the last war, that there were three camps formed of that corps at once in this kingdom. I saw them myself: one at Winchester; another in the west, at Plymouth; and a third, if I recollect right, at Chatham. Whether the militia is at present in such a state as to answer the valuable purposes it did then, or is capable of being rendered so, I will not pretend to say; but I see no reason, why, in such a critical state of affairs, the experiment should not be made; and why it may not be put again on the former respectable footing.

I remember, all the circumstances considered, when appearances were not nearly so melancholy and alarming as they now are; that there were more troops in the county of Kent alone, for the defence of that county, than there are now in the whole island.

"My lords, I contend that we have not, nor can procure, any force sufficient to subdue America. It is monstrous to think of it. There are several noble lords present, well acquainted with military affairs. I call upon any one of them to rise and pledge himself, that the military force now within the kingdom is adequate to its defence, or that any possible force to be procured from Germany, Switzerland, or elsewhere, will be equal to the conquest of America. I am too perfectly persuaded of their abilities and integrity, to expect any such assurance from them. Oh! but if America is not to be conquered, she is to be treated with. Conciliation is at length thought of; terms are to be offered. Who are the persons that are to treat on the part of this afflicted and deluded country? The very men who have been the authors of our misfortunes: the very men who have endeavoured, by the most pernicious policy, the highest injustice and oppression, the most cruel and devastating war, to enslave those people; they would conciliate, to gain the confidence and affection of those who have survived the Indian tomahawk and the German bayonet. Can your lordships entertain the most distant prospect of success from such a treaty, and such negotiators? No, my lords, the Americans have virtue, and they must detest the principles of such men; they have understanding, and too much wisdom, to trust to the cunning and narrow politics which must cause such overtures on the part of their merciless persecutors. My lords, I maintain that they would shun, with a mixture of prudence and detestation, any proposition coming from that quarter. They would receive terms from such men, as snares to allure and betray. They would dread them as ropes, meant to be put about their legs to entangle and overthrow them in certain ruin.

"My lords, supposing that our domestic danger, if at all, is far distant; that our enemies will leave us at liberty to prosecute this war with the utmost of our ability; suppose your lordships should grant a fleet one day, an army another; all these, I do affirm, will avail nothing, unless you accompany it with advice. Ministers have been in error; experience has proved it: and what is worse, they continue in it. They told you in the beginning, that 15,000 men would traverse America, without scarcely the appearance of interruption; two compaigns have passed since they gave us this assurance. Treble that number has been employed; and one of your armies, which composed two-thirds of the force by which America was to be subdued, has been totally destroyed,* and is now led captive through those provinces you call

* His lordship alluded to the army under General Burgoyne, which was forced to surrender to the Americans, on the 13th October, 1777, at Saratoga. On this occasion 5790 men surrendered on terms; and it was reckoned that about 4689 men, who had been wounded in the retreat from Stillwater to Saratoga, were left to the mercy of the Americans. so that the English loss might be estimated at about 10,000 men, besides thirty-five brass field-pieces. The moderation shown by the Americans on this occasion was deserving of the highest praise.

rebellious. Those men whom you called cowards, poltroons, runaways, and knaves, are become victorious over your veteran troops; and in the midst of victory, and flush of conquest, have set ministers the example of moderation and of magnanimity worthy of imitation.

"My lords, no time should be lost which may promise to improve this disposition in America; unless, by an obstinacy founded in madness, we wish to stifle those embers of affection which, after all our savage treatment, do not seem as yet to have been entirely extinguished. While on one side we must lament the unhappy fate of that spirited officer, Mr Burgoyne, and the gallant troops under his command, who were sacrificed to the wanton temerity and ignorance of ministers, we are as strongly impelled, on the other, to admire and applaud the generous, magnanimous conduct, the noble friendship, brotherly affection, and humanity of the victors, who, condescending to impute the horrid orders of massacre and devastation to their true authors, supposed that, as soldiers and Englishmen, those cruel excesses could not have originated with the General, nor were consonant to the brave and humane spirit of a British soldier, if not compelled to it as an act of duty. They traced the first cause of those diabolical orders to their source; and, by that wise and generous interpretation, granted their professed destroyers terms of capitulation, which they could be only entitled to as the makers of fair and honourable war.

"My lords, I should not have presumed to trouble you, if the tremendous state of this nation did not, in my opinion, make it necessary. Such as I have this day described it to be, I do maintain it is. The same measures are still persisted in; and ministers, because your lordships have been deluded, deceived, and misled, presume, that whenever the worst comes, they will be enabled to shelter themselves behind Parliament. This, my lords, cannot be the case: they have committed themselves and their measures to the fate of war, and they must abide the issue. I tremble for this country; I am almost led to despair, that we shall ever be able to extricate ourselves. Whether or not the day of retribution is at hand, when the vengeance of a much injured and afflicted people will, I trust, fall heavily on the authors of their ruin; and I am strongly inclined to believe, that before the day to which the proposed adjournment shall arrive, the noble earl who moved it will have just cause to repent of his motion."

The motion was carried.

Speech on the motion of the Duke of Richmond, on the 7th of April, 1778, for an Address to the King, beseeching his Majesty to recognise the independence of America by withdrawing his troops, and to dismiss his ministers; being the last speech made by the Earl of Chatham.

He began by lamenting that his bodily infirmities had so long, and especially at so important a crisis, prevented his attendance on the duties of Parliament, and declared that he had made an effort almost beyond the powers of

his constitution, to come down to the House on this day (perhaps the last time he should ever be able to enter its walls) to express the indignation he felt at an idea which he understood was gone forth, of yielding up the sovereignty of America.

He entered into a full detail of the American war, dilating on all the measures he had opposed, and evils he had predicted, adding at the end of each, "And *so it proved.*" He then continued thus:—

"My Lords,

"I rejoice that the grave has not closed upon me—that I am still alive to lift up my voice against the dismemberment of this ancient and most noble monarchy. Pressed down as I am by the hand of infirmity, I am little able to assist my country in this most perilous conjuncture; but, my lords, while I have sense and memory, I will never consent to deprive the royal offspring of the House of Brunswick, the heirs of the Princess Sophia, of their fairest inheritance. Where is the man that will dare to advise such a measure? My lords, his Majesty succeeded to an empire as great in extent as its reputation was unsullied. Shall we tarnish the lustre of this nation by an ignominious surrender of its rights and fairest possessions? Shall this great kingdom, that has survived whole and entire the Danish depredations, the Scottish inroads, and the Norman conquest; that has stood the threatened invasion of the Spanish armada, now fall prostrate before the House of Bourbon? Surely, my lords, this nation is no longer what it was! Shall a people, that seventeen years ago was the terror of the world, now stoop so low as to tell its ancient inveterate enemy, 'Take all we have, only give us peace?' It is impossible!

"I wage war with no man, or set of men. I wish for none of their employments: nor would I co-operate with men who still persist in unretracted error; or who, instead of acting on a firm, decisive line of conduct, halt between two opinions, where there is no middle path. In God's name, if it is absolutely necessary to declare either for peace or war, and the former cannot be preserved with honour, why is not the latter commenced without hesitation? I am not, I confess, well informed of the resources of this kingdom, but I trust it has still sufficient to maintain its just rights, though I know them not. But, my lords, any state is better than despair. Let us, at least, make one effort; and, if we must fall, let us fall like men!"

[The Duke of Richmond having replied, Lord Chatham, apparently in a state of excitement, attempted to rise to again address the House, but sunk down fainting, and was saved from falling by the Duke of Cumberland and some of the other peers. The House was immediately cleared, and medical aid obtained; and, as soon as his lordship was sufficiently recovered, he was removed to his villa at Hayes, in Kent, where he expired on the 11th of May, 1778, universally lamented.

On the melancholy occasion of Lord Chatham's illness, an adjournment of the House was immediately voted.

Thus died one of the greatest patriots that ever lived, and one of the brightest ornaments that ever adorned this country.]

THE

MODERN ORATOR.

THE SPEECHES

OF THE

RIGHT HONOURABLE

RICHARD BRINSLEY SHERIDAN.

LONDON:
AYLOTT AND JONES, 8, PATERNOSTER ROW,
AND ALL BOOKSELLERS.

1845.

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DAVIS AND HASLER, PRINTERS, CRANE COURT, FLEET STREET.

SPEECHES OF RICHARD BRINSLEY SHERIDAN.

Richard Brinsley Sheridan was born in Dublin, in September, 1751, educated at Harrow school, and afterwards became a member of the Middle Temple. He died July the 7th, 1816, and was buried in Poet's Corner, Westminster Abbey.

The early speeches of Mr Sheridan, like those of Lord Chatham, are unfortunately imperfectly reported.

Speech in support of the motion of Mr Coke, member for Norfolk, "That the resolution come to by the House on the previous day, condemnatory of Mr Pitt's continuance in office, be laid before his Majesty," 3rd February, 1784.

It will be remembered that on the rejection of Mr Fox's East India bill, by the House of Lords, on the 17th of December, 1783, the King immediately sent to Mr Fox, requiring him to deliver up his seals of office as Secretary of State, and dismissed the rest of the Cabinet on the following day. Mr Pitt was then appointed first Lord of the Treasury and Chancellor of the Exchequer, but found himself, at the opening of the memorable session of January, 1784, opposed by a large majority of the House, and in the singular position of Prime Minister, unable to carry any of his measures; notwithstanding which, no declaration could be extorted from him as to the intention of dissolving the Parliament, which had been expected, and several motions were made, expressive of the unconstitutional situation of affairs. Mr Pitt continued in this anomalous position, supported by the King in opposition to the House of Commons, till 24th March, when Parliament was dissolved, and on the meeting of the new Parliament Mr Pitt found himself supported by a majority.

Mr Sheridan said, "The noble lord* had laid down a principle some days ago, which prevented him from being surprised at anything the noble lord should advance. He stated, that in the appointment of ministers, the Crown ought not to consider beforehand whether they should be able to obtain the support of the House of Commons. It has frequently been said, that when there was a good understanding between the ministers of the Crown and the House of Commons, there was ground for apprehending that

* Lord Mulgrave, joint paymaster with Mr W. Grenville.

they were under the influence of corruption; but at present the noble lord might rejoice, for there was not now the least room for apprehending that the House was in danger of being corrupted by keeping up too good an understanding with the ministers of the Crown, who were now at open variance with the House. If the ministers and the House of Commons were closely united, the noble lord might possibly call their union adultery; but when the ministers and the House of Lords were united in the same bands, his lordship would probably call that union a legal marriage. As to what the noble lord had quoted about Lord Somers, it was not at all applicable to the present case; for Lord Somers, on the occasion alluded to, stood upon very different ground from that of the present ministers: there was an impeachment in one case, and none in the other. The right honourable gentleman at the head of his Majesty's councils had, on a former day, said that he stood firm in the fortress of the constitution; but could any fortress be called the fortress of the constitution, which was not garrisoned by the House of Commons? They were the natural defenders of the fort. There might possibly be indeed a lieutenant-governor of the fort, who, though he did not mix in the battle, was not less the commander, though his orders were not publicly delivered. The House of Commons ought to inspect the works, and see that no sap was carrying on which might dismantle it. The present ministers were labouring to erect a fabric that might shield them against every attack; but they were erecting it on ground that was already undermined; and however strong the pillars might be—however solid and firm the buttresses—however well-turned the arches; yet, as the foundation must be weak when the ground was undermined, not only the building could not stand, but the very weight of it would precipitate its fall. Secret influence was what undermined the whole;—it constituted a fourth estate in the constitution; for it did not belong to the King, it did not belong to the Lords, it did not belong to the Commons. The Lords disclaimed it, and the Commons found themselves thwarted by it in all their operations. An honourable member had asked if the coalition of the right honourable gentleman with the noble lord* had not lessened the confidence of his friends in the former. He would endeavour to give as satisfactory an answer as he could to this question. When the idea of a coalition with the noble lord was first started, he confessed that he had advised his right honourable friend not to accept of it; and his reason was this:—his right honourable friend had great popularity, which he might lose by a coalition; respectable friends, whom he might disgust; and prejudices of the strongest nature to combat. He made no doubt but similar objections occurred to the friends of the noble lord; and that they were urged to him, in order to dissuade him from coalescing with his right honourable friend. Mutual diffidence between men long accustomed to oppose one another, might naturally be expected.

* On the formation of the celebrated coalition ministry, Lord North was Secretary of State for the home department, and Mr Fox, Secretary of State for foreign affairs, April 2, 1783.

The prejudices of the public all concurred to prevent this coalition. The middling classes of people, for whom he had the highest respect, and to whom the House of Commons must look for support in every emergency, sooner than to the great, were not certainly the best qualified to judge of nice and refined points of politics. Accustomed to judge of measures by men, he apprehended that they would give themselves no time to examine the principles, motives, and grounds of a coalition; but condemn it on its first appearance, merely because it was composed of men who had long been political enemies. On these grounds, full of apprehension for the character of his right honourable friend, he most certainly gave him his advice against a coalition. But when the necessities of the times at last pointed it out as the only means of salvation to this country; when, from the opportunities he had had of seeing the noble lord and his friends, and proving the honour, fairness, openness, and steadiness of their conduct, not only he did not condemn the coalition, but he rejoiced that it had taken place in spite of even his own advice; diffidence soon gave way to the most perfect reliance on the honour of the noble lord, and on that of his friends, and their steady adherence to those principles which had been laid down as the basis of the coalition. It was unnecessary, therefore, after saying this, that he should tell the House his confidence in his right honourable friend had not felt the smallest diminution. Fully acquainted with his character, he knew that he looked down with indifference, if not with contempt, on riches, places, and dignities, as things by no means necessary to his happiness. It was his right honourable friend's ambition to deserve and preserve the esteem and confidence of his friends; and he was sure that he would sacrifice neither, for all that place and emolument could bestow upon him. Having said so much in defence of the coalition, he could not help expressing his surprise that he heard so much about it from the other side of the House; and the more he looked at the treasury bench, the more his astonishment grew upon him;—for there the gentlemen who were actually sitting upon it, were divided into parts; each of whom was composed of a member who had supported the noble lord in the blue ribbon, and of another who had opposed him. Those gentlemen, speaking to each other, might thus address each other: one might say, 'I supported Lord North through the whole of his administration, but left him at last, when I found he had formed a coalition with that abominable man Charles Fox.' The other might reply, 'And I joined Mr Fox for many years in his opposition to government; till at last I found it necessary to abandon him, when he disgraced himself by a coalition with that abominable man Lord North.' If the state of the public credit, and the funds, should become the subject of discussion in that House, one of the members of the treasury bench may very probably say, 'It was the cursed American war of Lord North that brought this ruin upon our funds;'—this would instantly call up his friend on the same bench, who would immediately reply, 'No; the American war was a just and constitutional war; it was the opposition given to it by the rebel-encourager Charles Fox, who caused the failure of

it; and this brought ruin on the country.' Thus a treasury, formed on anti-coalition principles, was itself a chain of coalitions. The grand coalition, which was the butt of every man's invective, had begot other coalitions; but there was this difference between the parent and the offspring: that, with the former, all was harmony, concord, and union; while the latter retained the heterogeneous principles of their original opposition, which made them still a prey to discord and confusion. An honourable gentleman had said that the majority in the coalition was formed of persons who represented the rotten treasury boroughs; and who were brought in by the noble lord in the blue ribbon, when he was at the head of the treasury. But that reproach was ill founded, for the coalition had been purged of such members; some of whom, having spurned the hand that made them, and turned their backs on their friend and benefactor, had found a happy asylum in the bosom of the administration. From this subject turning to another, Mr Sheridan observed, that if it was improper to interfere by any means with the exercise of the prerogative, the House was to blame for having agreed to the resolution which passed yesterday unanimously; which stated that a firm, efficient, extended, and united administration was necessary in the present state of affairs. For supposing such an administration was now formed, what might not the advocates for the prerogative of the Crown infer from it? That nothing could be more dangerous or more unconstitutional than such an administration; for, being composed of all the heads of parties in both Houses, they would of course be supported by majorities in both; and then the King would have forced upon him an administration which he could not dismiss."

The motion was carried by 211 against 187.

Speech on the motion of Mr Pitt to provide effectually for the dock-yards of Portsmouth and Plymouth, by a permanent system of fortification, as essential to the safety of the state.—27th February, 1786.

Mr Sheridan declared, "that he gave the noble viscount* full credit for the principles he had professed with respect to the constitution; and that he did sincerely believe that the noble viscount would not vote for the measure then under discussion, but upon a supposition that its tendency was rather to diminish than augment the military power of the Crown. Upon this ground, therefore, he would meet him; and he was sanguine enough to believe that the noble viscount might be induced to alter the opinion which he had declared, unless, indeed, he was restrained from exercising his free judgment upon the subject; an apprehension which a late speech of his had suggested, a speech in which the noble viscount had expressed himself so full of dread and horror at the means by which a tory foe, in another place, had, both by sap and storm, assailed those constitutional bulwarks

* Viscount Mahon.

which the noble viscount had so zealously endeavoured to erect for the protection of our decayed election rights, that it was almost reasonable to presume that the noble viscount might have entered into a serious compact with a noble duke,* his former ally on this subject, for reciprocal assistance on their two favourite objects; by which the noble viscount was peremptorily to support the plan of fortifying the dock-yards in that House, or the noble duke would no long erengage to assist him in fortifying the constitution in the other. But what was the noble viscount's argument? He had rested the matter entirely upon the ground taken by his right honourable friend (Mr Pitt), that this pursuing the system of fortification would actually diminish the standing army in this country; and that the number of troops being so diminished, there would be a proportionably less cause for that constitutional jealousy, with which all parties agreed it was our duty to regard the increasing military power of the Crown. That this system of defence by fortifications could, under any circumstances, have the effect of reducing the standing army, he must beg leave utterly to deny. Some plausible arguments, indeed, had been adduced in support of this notion, which, however, when sifted, would be found fallacious and contradictory. For the present, however, he would waive that point, and admit implicitly, that the standing army of the country would be reduced by the measure proposed, precisely in the proportion stated by the noble viscount; it then, however, remained to be proved, that, giving the noble viscount his premises, he was right in his conclusion. When we talked of a constitutional jealousy of the military power of the Crown, what was the real object to which we pointed our suspicion? What was the datum, as the fashionable phrase was, upon which they proceeded? What! but that it was in the nature of kings to love power, and in the constitution of armies to obey kings. This, doubtless, was most delicate ground to touch upon; but the circumstances of the present question called for plain dealing; and for his part he could not be suspected, even in the smallest degree, of alluding either to the present monarch upon the throne, or to the army under his command. He agreed most sincerely to the distinctions taken with respect to both, by a worthy baronet who had spoken before him; but at the same time it must be admitted, that whenever we spoke of a constitutional jealousy of the army, it was upon a supposition that the unhappy time might come, when a prince, misled by evil counsellors, and against the suggestions of his own gracious temper, of course, might cherish the disastrous notion that he could become greater by making his subjects less, and that an army might be found so forgetful of their duty as citizens, so warped by feelings of false honour, or so degraded by habits of implicit obedience, as to support their military head in an attempt upon the rights and liberties of their country! The possible existence of this case, and the probable coincidence of these circumstances, was that to which every gentleman's mind must point when he admitted an

* The Duke of Richmond, Master-general of the Ordnance.

argument upon the subject; otherwise we burlesqued and derided the wisdom of our ancestors in their provisions of the Bill of Rights, and made a mere mockery of the salutary and sacred reserves with which, for a short and limited period, we annually entrusted the executive magistrate with the necessary defence of the country. This plain statement being really the case, to what, in such a crisis, were we to look? Were our apprehensions only to be directed to the length of the muster-roll of men in the King's pay? Were we to calculate only the number of soldiers whom he could encamp at Hounslow, or the force of the detachment which he might spare to surround the lobby of the House of Commons? No; the gist and substance of the question lay briefly here:—In which of the two situations now argued upon, would the King and his evil advisers find themselves in a state of the greatest military force and preparation, and most likely to command and receive a military support? In this point of view, would it be argued that these fortresses, which were to become capable of resisting the siege of a foreign enemy landed in force, would serve as a sufficient strength in the hands of the Crown, when the enemy was his people? Would no stress be given to the great and important distinction, already ably urged, between troops elected and separated from their fellow-citizens in garrisons and forts, and men living scattered and entangled in all the common duties and connexions of their countrymen? Was this an argument of no weight when applied to the militia, who were to form a part of these garrisons? or would it, even for a moment, be pretended, that men under such circumstances, and in such disciplined habits, were not a thousand times more likely to despise the breath of Parliament, and to lend themselves to the active purposes of tyranny and ambition, than the loose and unconnected bodies which exist even with jealousy under the present system? It was necessary to press the distinction: the fact was, that these strong military holds, if maintained, as they must be in peace, by full and disciplined garrisons; if well provided, and calculated to stand regular sieges, as the present plan professed; and if extended to all the objects to which the system must inevitably lead, whether they were to be considered as inducements to tempt a weak prince to evil views, or as engines of power, in case of an actual rupture; would, in truth, promise tenfold the means of curbing and subduing the country, than could be stated to arise even from doubling the present military establishment; with this extraordinary aggravation attending the folly of consenting to such a system, that those very naval stores and magazines, the seed and sources of our future navy, the effectual preservation of which was the pretence for these unassailable fortresses, would, in that case, become a pledge and hostage in the hands of the Crown, which, in a country circumstanced as this was, must insure an unconditional submission to the most extravagant claims which despotism could dictate.

"What could possibly prove more fallacious than holding out expectations that a system of defence by fortifications could, in fact, end in a retrenchment of the standing army? The first fallacy in this argument

stood forward in the supposition that the system of defence by fortifications was necessarily to stop, when Portsmouth and Plymouth should become secured; and that the reasoning upon which the extensive works for those places were justified, would not apply to any other parts of the kingdom, however their importance called for defence, or their situation exposed them to attack. The shortest method of refuting this idea, was simply to suppose the same board of officers, acting under the same instructions, and deliberating under the same data, going a circuit round the coast of the kingdom, and directed to report upon the various places in their progress; and let any person fairly consider the suppositions under which they make their present report, and then hesitate to confess, that they must, of necessity, recommend a similar plan of defence proportioned to the importance of every place to which their attention was directed. It was superfluous to dwell upon the circumstances which no longer permitted us to consider Holland, in future, otherwise than as a province of France; or which made it equally reasonable to look with an eye of apprehension to the neighbouring coast belonging to the Emperor; because the fact was evident, that, in the case of this country being engaged in a war against a powerful confederacy (upon the supposition of which alone the present scheme was recommended and justified), every motive of prudence must compel us to direct an attention as vigorous and vigilant to the eastern as to the southern coast of this country. It was not possible for the House to remain at a loss to discover various places which, with Chatham and Sheerness (where most extensive lines had actually been begun under the auspices of the noble duke), must necessarily be provided for in the new system of protection; and for his own part, indeed, he could wish that any person would compute the stationary defence necessary for such places, in addition to the twenty-two thousand men demanded for Portsmouth and Plymouth, and allow likewise for any moving force in the country, and then decide what chance there was that this prolific system would terminate in a reduction of the standing army!

"Concerning the probability of our being able to furnish men for the constant maintenance of these garrisons, he felt it requisite to observe, that the argument had been, not a reference to our present peace establishment, but to the extent of the service during the most extravagant periods of the last war; which, in other words, was to hold out a notion that we might speedily again look to a time when we should become able to expend, for the purpose of war, fifteen millions of money in the course of a single year!—at the very moment when the right honourable gentleman was holding out the reduction of our debt by a few hundred thousand pounds, as the triumph of his administration, and the corner-stone of that pillar upon which his fame was to become emblazoned! But, even supposing this to be possible, and considering the reference to our establishment in the last war as just, the right honourable gentleman had taken an unfair advantage of the argument; for when he stated the numerous armies which we had upon the continent of America, as resources from which we were in future to garrison these forts,

and increase our home defence, he ought also to have taken into his account the enormous floating establishment attendant upon those armies; and which, being converted into an efficient naval defence at home, would make both his fortifications and his garrisons unnecessary.

"To the attack which the right honourable gentleman (Mr Pitt) had chosen to make upon the late administration, he should beg leave to answer that, in whatever point of view he was that day to regard the right honourable gentleman, whether as that glorious orb which an honourable gentleman (Mr Luttrell) had described him to be, whose influence and power was more than to compensate to the nation for the loss of a hemisphere; or whether his lustre was calculated rather to dazzle and surprise, than to cherish and invigorate; whether he merited the less complimentary language of his right honourable friend (Colonel Barré), who observed, that his conscience had been surprised in this business; or whether he had capitulated upon regular approaches; whether he had been successful in repelling the insinuation of another gentleman, that he was not in earnest in this cause, by the vehemence of his manner, or had confirmed it by the weakness of his argument; whether the right honourable gentleman most deserved the praises or reproaches which he had received, he would not embarrass himself by pretending to determine; but only observe, that one part of his conduct had most astonishingly escaped the panegyric of his friends—he meant the spirit and enterprise with which, taking his hint probably from the subject in debate, he had endeavoured to carry the war into the enemy's country, and pursue measures of offence and attack, whilst every pass at home was left unfortified and defenceless.

"For what was the ground of this strenuous charge? The late administration (as the right honourable gentleman asserted) had submitted part of this very plan to the judgment of parliament, but, at the desire of the House, withdrew that part for reconsideration; and now, if, upon reconsideration, they had in any respect altered their opinion, it was the grossest inconsistency of conduct and dereliction of principle!—an extraordinary charge, and particularly so from the gentleman by whom it was urged! He had reconsidered many subjects, without aspiring to the merit of an obstinate adherence to his first opinion. He had reconsidered his American intercourse bill, and had publicly avowed, that he had parted with every idea which he once entertained upon that subject. He had reconsidered his India bill, and, before it was engrossed, had scarcely suffered one word to remain which belonged to it when it was brought in. He had reconsidered his Irish resolutions, in every part, provision, and principle; and, having first offered them as a bounty to Ireland, he had reconsidered the boon, and annexed a price to it, and then reconsidered his own reconsideration, and abandoned his own indispensable condition! And yet this minister, whose whole government had been one continued series of rash proposition and ungraceful concession, held it out as a palpable enormity in others, that reconsideration should have produced alteration of sentiment, and that, too, upon a subject where

the first opinion must have been taken upon credit, and the second was called for upon minute information and authentic inquiry. In the same excellent spirit of reconsideration, many honourable gentlemen round the minister, who had formerly given a decided opinion against the fortifications, were now solicitous to argue in their favour. As an effectual defence of the conduct of the late administration, he could prove, by referring to the estimates and journals of 1783, that they had not the least occasion to resort to the justification of having changed their minds in consequence of better information; for the fact was, that they never had, even in the slightest degree, committed themselves either in opinion or approbation of the present plan.

"Concerning the history of the rise and progress of fortifications in this island, upon which the right honourable gentleman had laid so much stress; as if he had proved, that what was not new must be constitutional, and that the point which had been often tried must be fit to be carried into execution; he should maintain, that every word urged on this subject made against the cause which it was brought to support; for experience, even by their own statement, convinced us of nothing but that the nation had invariably been deluded and defrauded upon this unprincipled plea of fortifications; that much had been done and undone, many schemes and many projects tried, many millions spent, and the object avowedly as distant as ever! So that repeated proofs of past deception were all which they urged as arguments for present confidence; and it was modestly expected they would believe, that, because a point had been always unsuccessfully attempted, it was now at last certain of being wisely accomplished.

"The right honourable gentleman (Mr Pitt) had chosen eagerly to dwell upon a pretended charge of inconsistency which he advanced against an honourable naval officer (Captain Macbride), and which, although the latter had omitted to reply to it, had no other foundation than the right honourable gentleman having thought proper to confound the opinion of the land officers with that of the sea officers. With respect to the report itself, he was ready to admit, that those who had entrenched themselves in constitutional objections only, refusing to be bound by the advice and authority of any board of general officers or engineers whatsoever upon such a subject, had taken strong and respectable ground; and that those also, who had argued the subject more with a reference to the state of the revenue of the country, and had seemed to consider the measure as advisable, or otherwise, according as it should prove consistent with the necessary principles of economy, were, undoubtedly, entitled to every attention. For his own part, however, he did not go to the extreme of the reasoning used on either of these topics—every hour produced instances where practices highly dangerous by their precedent, and evidently infringing on the established rights of the subject, were resorted to, unavoidably perhaps, for the purpose of retrieving and maintaining that public credit, without which the affairs of this country were completely desperate. The right honourable gentleman had pledged himself not to press this business, unless he could make it appear to be a measure not

less essential to national safety than to the preservation of national credit. Upon this line of argument, the dangers to be apprehended to the constitution, which were stated as eventual and remote, must, of course, give way, and the point of economy was wholly out of the question.

" The right honourable gentleman had also contended, that the decision of a board specially appointed for this inquiry, and consisting of persons eminently qualified for the judgment expected from them, was the best authority which the country could obtain on the subject, and afforded a surer guide for the opinion and conduct of that House, than either the arguments or the information of its individual members could supply. To this he had already assented, and now repeated his assent; nor did he hesitate to renew the pledge in which the right honourable gentleman had appeared so anxious to fix him, that he, for his own part, mindful of the terms upon which the question was suspended at the close of the last session, would rest contented to abide by the decision of a board so described, and to withdraw his objections to the plan, if it could be fairly made to appear that these gentlemen (whose names and characters he freely admitted did entitle them to the confidence which was claimed for them), upon a full investigation of the whole subject proposed last year in Parliament to be submitted to their inquiry, and being left to their own free and unfettered judgment in forming their decision—had reported, as their decided and unqualified opinion, that the plan proposed by the noble duke, and then under discussion, was a measure which it became the wisdom and prudence of Parliament to adopt. Upon this point they were at issue; and the report in his hand was the only authority to which he should appeal, and the sole ground upon which he should argue.

" Yet, previous to the least discussion of the matter of the report, he could not omit to take notice of many circumstances attending the manner of its formation. Far from meaning to reflect upon the officers who composed the board, he must beg leave to support the complaint which had been urged by the right honourable gentleman (Colonel Barré) who first suggested this reference, that, in violation of the confidence reposed in ministers, they had not referred the question of a system for the general defence of the country to the board, giving them due time and materials for forming their opinion upon the great and extensive subject, but had merely required from them a short answer relative to two points of attack under certain data of their own imposing.

" Many powerful, perhaps unanswerable objections, had been made against the appointment of the noble duke to be president of the board. Some honourable gentlemen had alluded to the peculiar circumstances of the noble duke's personal character; he had been described as a man who was never known to give up a point; but whether this was the case or not, or whether there were some principles of public profession, to which the noble duke had not very rigorously adhered, he would not pretend to decide, as he might be suspected of speaking from party prejudices. There was one characteristic, however, of the noble duke's mind, which he thought might be fairly men-

tioned, as it was a peculiarity which had been publicly brought forward in argument by high authority in that House; and if, now referring to it, he were to represent that noble personage as of a temper eager for extravagance, and vehement in the extreme—if he were to describe him as a person who, having taken up a just principle, was capable of defeating all salutary proceeding upon it, by driving on with a heated imagination to the most flighty and preposterous conclusions, the right honourable gentleman opposite to him (the Chancellor of the Exchequer) would become his authority. He was the person who had led him and the House into that opinion, as must be in the recollection of every honourable gentleman who, during a former session, heard that right honourable gentleman discuss the noble duke's principles of parliamentary reform, and recollected the terms of indignant ridicule with which he had cautioned them against the schemes of so visionary a projector. If, therefore, he was arraigned for following any plan of the noble duke's with a peculiar degree of jealousy, he should leave his justification in the abler hands of the right honourable gentleman.

"Yet the noble duke deserved the warmest panegyrics for the striking proofs he had given of his genius as an engineer, which appeared even in the planning and construction of the paper in his hand. The professional ability of the master-general shone as conspicuously there as it could upon our coasts. He had made it an argument of posts, and conducted his reasoning upon principles of trigonometry as well as logic. There were certain detached data, like advanced works, to keep the enemy at a distance from the main object in debate. Strong provisions covered the flanks of his assertions. His very queries were in casements. No impression, therefore, was to be made on this fortress of sophistry by desultory observations; and it was necessary to sit down before it, and assail it by regular approaches. It was fortunate, however, to observe, that notwithstanding all the skill employed by the noble and literary engineer, his mode of defence on paper was open to the same objection which had been urged against his other fortifications—that if his adversary got possession of one of his posts, it became strength against him, and the means of subduing the whole line of his argument.

"The points which (Mr Sheridan said) he should conceive that he had distinctly established from the authentic document before the House, notwithstanding the mutilated state in which it appeared, were—first, that not one word, hint, or suggestion on the part of the naval officers tending to give any approbation, either directly or by implication, to the scheme of fortification then in debate, was to be found in that paper; but that, on the contrary, from the manner in which a reference was made to the minutes of the naval officers, of which the result was withholden, a strong presumption might be grounded, wholly independent of the information which the House had received from members of that board, that those minutes did contain a condemnation of the plan. He did not expect to hear it argued that the result of those minutes could not be communicated, because they were mixed with

dangerous matters of intelligence; they had shown a sufficient degree of ingenuity in the manner of having extracted them from the report; and it would prove extraordinary indeed if, wherever the judgment was unfavourable, it should have been so blended and complicated with matter of detail and dangerous discussion, that no chemical process in the ordnance laboratory could possibly separate them; whilst, on the contrary, every approving opinion, like a light, subtile, oily fluid, floated at the top at once; and the clumsiest clerk was capable of presenting it to the House, pure and untinged by a single particle of the argument or information upon which it was produced.

"In the second place, he should contend that the opinion given by the land officers in favour of the plan was hypothetical and conditional; and that they had unanimously and invariably, throughout the whole business, refused to lend their authority to, or make themselves responsible for, the data or suppositions upon which that opinion was to be maintained. This circumstance deserved the more particular attention of the House, because the report had been so artfully managed, as in many points to appear to support a right honourable gentleman (the Chancellor of the Exchequer) in a contrary assertion.

"Next, he regarded himself as unanswerably justified in concluding that the data themselves were founded upon a supposition of events so improbable and desperate, that the existence of the case contained in them, carried with it not the imminent danger of Portsmouth and Plymouth only, but the actual conquest of the island. Upon this occasion, he did not think much detail of argument was necessary, after he had, at least in his opinion, irrefragably established, that in the case alluded to, in the words often recurred to, 'under the circumstance of the data,' was literally this: 'The absence of the whole British fleet for the space of three months, while an army of thirty or forty thousand men was ready on the enemy's coast to invade this country; that enemy to choose their point of landing, to land and encamp, with heavy artillery, and every necessary for a siege, whilst no force in Great Britain could be collected in less than two months to oppose them.' By no means could he admit as a fact, even taking it for granted that the enemy should decide in assaulting no part but Portsmouth and Plymouth, he should, with most polite hostility, scorn to strike a blow at the heart of the empire; but, in the courtly spirit of a French duelist, should aim only to wound in the sword-arm; yet, even under this idea, must he deny that these only objects provided for, could be said to be effectually secured. For, first, it was not made out that the enemy might not either land or march to the eastward of Plymouth, where no defence was pretended; and, secondly, the whole question turning upon a supposition of our being inferior at sea, in that case a presumption of the safe return of the inferior fleet and its beating the superior fleet, was the sole resource for the relief of the besieged dock-yards; the defence of which was expressly stated in the report, to be calculated only against the force, and for the time, expressed in the data; so that

the enemy having it obviously in his power, whilst master of the sea, to recruit his own army, as well as to keep the other exposed parts of this kingdom in check and alarm, and thereby to prevent the possibility of our assembling and uniting a force sufficient to raise the siege, it followed that if either the enemy's army exceeded the number supposed, or at the time was prolonged beyond the period calculated, the whole of this effectual security vanished under their own reasoning, and we should merely have prepared a strong hold in the country for our foe; a hold which the circumstances under which he was supposed to make the attack, would enable him for ever to retain.

"Mr Sheridan now proceeded to his remarks concerning the distinction which had, during the debate, been made relative to the different persons who were supposed to form the opposition to the present plan, and said he had heard the old insinuations of party views resorted to by those who defended the original motion; and some honourable gentlemen who most strenuously opposed it, had, however, in a kind of language which he could not avoid taking notice of, disavowed any party feeling or connexion with the party in question. With respect to himself, he was happy that the business had worn so little the appearance of party as it had; and although he had moved for and obtained the report, which had been so much discussed, and upon which so much had turned, he had proved himself ready and anxious (as the persons alluded to well knew,) to resign the business into the hands of the respectable gentleman who had upon that day so ably brought it forward. He could never, for one, submit to the imputation, that the party with whom he had the honour to act were supporting or opposing any measure upon the motives less just, less fair, or less honourable than those which influenced any other description of gentlemen in that House. The present question could not even be pretended to be pursued with party policy, as there was not a person in the House who could avoid confessing, that party purposes would be better gratified by entangling the right honourable gentleman in the pursuit of this obnoxious and unpopular scheme. But the gentleman* who had upon that day led the opposition to it, had been desired to take such a lead, because it appeared among the most effectual means of warding off an injury from the country; otherwise, to be enlisting under leaders for the day, or courting the temporary assistance of any description of gentlemen, would, in his opinion, prove a conduct as impolitic as undignified. On the other hand, to recede from any important contest, because gentlemen unconnected with them were likely to have the credit of the event, would deservedly cast on them the reproach of being a faction and not a party. But this was not their conduct; they could defend their situation upon system and principle; however reduced their ranks, they were more desirous to prove they were in the right than to increase their numbers. He was confident, however, that the gentlemen to

* Mr Bastard.

whom he might be supposed to allude, were too liberal to set a less value upon their support that day because it was unaccompanied by adulation, or any endeavour to canvass for their future connexion. Let us (added Mr Sheridan) this night be firmly embodied in a cause we equally approve. Let us do this great service to the country; then separate, and seek opposing camps. Let them return with double triumph, if they will, of having conferred an important benefit on their constituents and the nation, and a real obligation on the government. Let them have the credit with the country of having defeated the minister's measure; and the merit with his friends, of having rescued him from a perilous dilemma. Leave us only the silent satisfaction that, without envying the reputation of those whom we were content to follow, without being piqued by insinuations against our motives, and without debating whether the minister might not be served by our success, we gave an earnest and zealous assistance in defeating a measure which, under the specious pretence of securing our coasts, strikes at the root of our great national defence, and at the heart of the constitution itself."

On a division, the number being equal, the Speaker gave his casting vote against the motion.

Speech on the fourth charge against Warren Hastings, Esq., the late Governor-general of Bengal, as the ground for his impeachment, in respect of his conduct towards the Begum Princesses of Oude—7th February, 1787; the House being in committee.

On the death of Sujah Dowla, the Subahdar or Nabob of Oude, in 1775, his son Asoff-u-Dowla became Nabob, with the consent of the council of Bengal, who, in return for guaranteeing to him the provinces of Corah and Allahabad, exacted from him, amongst other things, a transfer of the territory of the Rajah Cheit Sing, Zemindar of Benares, yielding an annual income of 2,210,000 rupees, by way of tribute to the Nabob; the great Zemindars, or native landholders of India, being by the constitution of the Mogul empire, tenants or tributaries to the great princes; and the inferior Zemindars, in like manner, tributary to the great Zemindars or Rajahs. This revenue had been punctually paid by the Rajah; but, in July, 1778, he was required to pay five lacs of rupees as an extraordinary subsidy, for the maintenance of the army for the current year. This was with difficulty raised and paid, as also were the subsidies of the two following years, but (on the ground of extreme distress) not till after considerable delay and threats of compulsion. Notwithstanding this, a fresh demand was made on him to raise 2000 men as auxiliaries to the British army; and on the Rajah hesitating to comply with this exaction, Mr Hastings himself proceeded to Benares, seized him, and placed him under arrest. The natives, enraged at this outrage against their chief, rose on the British troops, and, in the confusion which ensued, the Rajah escaped, and Mr Hastings was forced to take refuge, for safety, in the fortress of Chunar. Benares was afterwards ravaged by the British

army; Cheit Sing driven into exile; and a youth, of the age of nineteen years only, created Rajah, with scarcely any of the functions of royalty, and his annual tribute raised to forty lacs of rupees. Disappointed in the amount of money and wealth derived from this outrage, Mr Hastings next determined to obtain possession of the treasure which the mother and widow of Sujah Dowla, the late Nabob of Oude, and who were called the Begums of Oude, were reputed to possess, under the name of Jaghires; and accordingly, by a treaty entered into at Chunar, between Mr Hastings and Asoff-u-Dowla, the latter agreed to strip the Begums of their wealth, and to transfer the proceeds of their Jaghires to the Governor-general—in return for which he was to be relieved from the expense of supporting the British military and civil establishments. A pretended conspiracy of the Begums against the British was made the pretext for the plunder; and the course about to be adopted having received the legal sanction of Sir Elijah Impey, the Chief Justice of Bengal, the Nabob Asoff-u-Dowla, together with Mr Middleton, the Governor-general's agent, proceeded to Fyzabad, where the Begums dwelt, and immediately seized their palace; the Jaghires were transferred, the servants of the Princesses were put to torture to disclose the treasure, and even the household of the Zenana were subjected to the horrors of famine, until their mistresses consented to surrender their last rupee. This transaction produced upwards of £500,000 to the Indian government; and Mr Hastings extorted a present of ten lacs of rupees, or £100,000, from the Nabob, which, by permission of the company, he retained for his own use.

Mr Sheridan commenced by observing "that had it been impossible to have received, without a violation of the established rules of Parliament, the paper which the honourable member, Mr Dempster, had just now read,* he should willingly have receded from any forms of the House, for the purpose of obtaining new lights and further illustrations on the important subject then before them; not, indeed, that, on the present occasion, he found himself so ill prepared, as merely, for this reason, to be prevented from proceeding to the discharge of hisduty; neither, to speak freely, was he inclined to consider any explanatory editions to the evidence of Sir Elijah Impey so much framed to elucidate, as to perplex and contradict. Needless to his present purpose was it for him to require Sir Elijah, *legally*, to recognise what had been read in *his* name, by the honourable gentleman. In fact, neither the informality of any subsisting evidence, nor the adducement of any new explanations from Sir Elijah Impey, could make the slightest impression upon the vast and strong body of proof which he should now bring forward against Warren Hastings. Yet, if any motive could have so far operated upon him, as to make him industriously seek for renewed opportunities of questioning Sir Elijah, it would result from his fresh and indignant recollection of the low and artful stratagem of delivering to the members, and others, in this

* Amending and explaining the evidence given by Sir Elijah Impey.

last period of parliamentary inquiry, printed handbills of defence, the contents of which bespoke a presumptuous and empty boast of completely refuting all which, at any time *had*, or even *could*, be advanced against Mr Hastings, on the subject of the fourth article in the general charge of a right honourable member (Mr Burke). But even this was far beneath his notice. The rectitude and strength of his cause were not to be prejudiced by such pitiful expedients ; and he should not waste a moment in counteracting measures, which, though insidious, were proportionately frivolous and unavailing. Nor would he take up the time of the committee with any general arguments to prove that the subject of the charge which had fallen to his lot to bring forward, was of great moment and magnitude. The attention which Parliament had paid to the affairs of India, for many sessions past, the voluminous productions of their committees on that subject, the various proceedings in that House respecting it, their own strong and pointed resolutions, the repeated recommendation of his Majesty, and the reiterated assurances of paying due regard to these recommendations, as well as various acts of the legislature, were all of them undeniable proofs of the moment and magnitude of the consideration ; and incontrovertibly established this plain broad fact, that Parliament directly acknowledged that the British name and character had been dishonoured, and rendered detested throughout India, by the malversation and crimes of the principal servant of the East India Company. That fact having been established beyond all question, by themselves, and by their own acts, there needed no argument on his part to induce the committee to see the importance of the subject about to be discussed that day in a more striking point of view than they themselves had held it up to public observation. There were, he knew, persons without doors who affected to ridicule the idea of prosecuting Mr Hastings ; and who not inconsistently redoubled their exertions, in proportion as the prosecution became more serious, to increase their sarcasms upon the subject, by asserting that Parliament might be more usefully employed ; that there were matters of more immediate moment to engage their attention; that a commercial treaty with France had just been concluded ; that it was an object of a vast and comprehensive nature, and in itself sufficient to engross their attention. To all this he would oppose these questions. Was Parliament mis-spending its time by inquiring into the oppressions practised on millions of unfortunate persons in India, and endeavouring to bring the daring delinquent, who had been guilty of the most flagrant acts of enormous tyranny and rapacious peculation, to exemplary and condign punishment? Was it a misuse of their functions to be diligent in attempting, by the most effectual means, to wipe off the disgrace affixed to the British name in India, and to rescue the national character from lasting infamy ? Surely no man who felt for either the one or the other would think a business of greater moment or magnitude could occupy his attention ; or that the House could, with too much steadiness, too ardent a zeal, or too industrious a perseverance, pursue its object. Their conduct in this respect, during the course of the preceding year, had done them immor-

tal honour, and proved to all the world, that however degenerate an example of Englishmen some of the British subjects had exhibited in India, the people of England, collectively, speaking and acting by their representatives, felt, as men should feel on such an occasion, that they were anxious to do justice, by redressing injuries, and punishing offenders, however high their rank, however elevated their station.

"Their indefatigable exertions in committees appointed to inquire concerning the affairs of India—their numerous, elaborate, and clear reports—their long and interesting debates—their solemn addresses to the throne—their rigorous legislative acts—their marked detestation of that novel and base sophism in the principles of judicial inquiry (constantly the language of the Governor-general's servile dependants), that crimes might be compounded—that the guilt of Mr Hastings was to be balanced by his successes—that fortunate events were a full and complete set-off against a system of oppression, corruption, breach of faith, peculation, and treachery; and, finally, their solemn and awful judgment that, in the case of Benares, Mr Hastings's conduct was a proper object of parliamentary impeachment, had covered them with applause, and brought them forward in the face of all the world as the objects of perpetual admiration. Not less unquestionably just, than highly virtuous, was the assertion of the Commons of Great Britain, that there were acts which no political necessity could warrant; and that, amidst flagrances of such an inexpiable description, was the treatment of Cheit Sing. To use the well-founded and emphatic language of a right honourable gentleman (Mr Pitt), the committee had discovered in the administration of Mr Hastings, proceedings of strong injustice, of grinding oppression, and unprovoked severity. In this decision the committee had, also, vindicated the character of his right honourable friend (Mr Burke) from the slanderous tongue of ignorance and perversion. They had, by their vote on that question,* declared, that the man who brought the charges was no false accuser; that he was not moved by envy, by malice, nor by any unworthy motives, to blacken a spotless name; but that he was the indefatigable, persevering, and, at length, successful champion of oppressed multitudes against their tyrannical oppressor. With sound justice, with manly firmness, with unshaken integrity, had his right honourable friend, upon all occasions, resisted the timid policy of mere remedial acts; even the high opinion of Mr Hastings's successor—even the admitted worth of Lord Cornwallis's character—had been deemed by his right honourable friend an inadequate atonement to India for the injuries so heavily inflicted on that devoted country. Animated with the same zeal, the committee had, by that memorable vote, given a solemn pledge of their further intentions. They had audibly said to India, You shall no longer be seduced into temporary acquiescence, by sending out a titled governor, or a set of vapouring resolutions. It is not with stars

* The impeachment of Mr Hastings, on the charge relative to his conduct towards Cheit Sing, brought forward by Mr Fox in the preceding session, had been voted by a majority of forty.

and ribbons, and all the badges of regal favour, that we atone to you for past delinquencies. No—you shall have the solid consolation of seeing an end to your grievances, by an example of punishment for those that have already taken place. The House has set up a beacon, which, whilst it served to guide their own way, would also make their motions more conspicuous to the world which surrounded and beheld them. He had no doubt but in their manly determination to go through the whole of the business, with the same steadiness which gave such sterling brilliancy of character to their outset, they might challenge the world to observe and judge of them by the result. Impossible was it for such men to become improperly influenced by a paper, bearing the signature of Warren Hastings, and put not many minutes before into their hand, as well as his own, on their entrance into the House. The insidious paper he felt himself at liberty to consider as a second defence, and a second answer to the charge he was about to bring forward—a charge replete with proof of criminality of the blackest dye—of tyranny the most vile and premeditated—of corruption the most open and shameless—of oppression the most severe and grinding—of cruelty the most hard and unparalleled. But he was far from meaning to rest the charge on assertion, or on any warm expressions which the impulse of wounded feelings might produce. He would establish every part of the charge, by the most unanswerable proof, and the most unquestionable evidence; and the witness whom he would bring forth to support every fact which he would state, should be, for the most part, one whom no man would venture to contradict—Warren Hastings himself. Yet, this character had friends, nor were they blameable. They might believe him guiltless, because he asserted his integrity. Even the partial warmth of friendship, and the emotions of a good, admiring, and unsuspecting heart, might not only carry them to such lengths, but incite them to rise with an intrepid confidence in his vindication. Again (Mr Sheridan added) would he repeat that the vote of the last session—wherein the conduct of this pillar of India, this corner-stone of our strength in the East, this talisman of the British territories in Asia was censured—did the greatest honour to this House, as it must be the forerunner of speedy justice on that character, which was said to be above censure, and whose conduct we were given to understand was not within the reach even of suspicion, but whose deeds were indeed such as no difficulties, no necessity, could justify; for where is the situation, however elevated, and, in that elevation, however embarrassed, that can authorise the wilful commission of oppression and rapacity? If, at any period, a point arose on which inquiry had been full, deliberate, and dispassionate, it was the present. There were questions on which party conviction was supposed to be a matter of easy acquisition; and, if this inquiry was to be considered merely as a matter of party, he should regard it as very trifling indeed; but he professed to God, that he felt in his own bosom the strongest personal conviction, and he was sensible that many other gentlemen did the same. It was on that conviction that he believed the conduct of Mr Hastings, in regard to the Nabob of Oude and the Begums,

comprehended every species of human offence. He had proved himself guilty of rapacity at once violent and insatiable—of treachery, cool and premeditated—of oppression, useless and unprovoked—of breach of faith, unwarrantable and base—of cruelty, unmanly and unmerciful. These were the crimes of which, in his soul and conscience, he arraigned Warren Hastings, and of which, he had the confidence to say, he should convict him. As there were gentlemen ready to stand up his advocates, he challenged them to watch him—to watch if he advanced one inch of assertion for which he had not solid ground, for he trusted nothing to declamation. He desired credit for no fact which he did not prove, and which he did not indeed demonstrate beyond the possibility of refutation. He should not desert the clear and invincible ground of truth, throughout any one particle of his allegations against Mr Hastings, who uniformly aimed to govern India by his own arbitrary power, covering with misery upon misery a wretched people whom Providence had subjected to the dominion of this country; whilst in the defence of Mr Hastings, not one single circumstance grounded upon truth was stated. He would repeat the words, and gentlemen might take them down; the attempt at vindication was false throughout. Mr Sheridan, now pursuing the examination of Mr Hastings's defence, observed that there could not exist a single plea for maintaining that that defence against the particular charge now before the committee was hasty. Mr Hastings had had sufficient time to make it up, and the committee saw that he had thought fit to go back as far as the year 1775, for pretended ground of justification, from the charge of violence and rapacity."

[Mr Sheridan here read a variety of extracts from the defence, which stated the various steps taken by Mr Bristow, in the years 1775 and 1776, to procure from the Begums aid to the Nabob.]

" Not one of these facts, as stated by Mr Hastings, was true. Groundless, nugatory, and insulting were the affirmations of Mr Hastings, that the seizure of treasures from the Begums, and the exposition of their pilfered goods to public auction (unparalleled acts of open injustice, oppression, and inhumanity!) were in any degree to be defended by those encroachments on their property which had taken place *previous* to *his* administration, or by those sales which they themselves had solicited as a favourable mode of supplying a part of their aid to the Nabob. The relation of a series of plain, indisputable facts, would irrecoverably overthrow a subterfuge so pitiful,—a distinction so ridiculous! It must be remembered that, at that period, the Begums did not merely desire, but they most expressly stipulated, that of the thirty lacs promised, eleven should be paid in sundry articles of manufacture. Was it not obvious, therefore, that the sales of goods, in the first case, far from partaking of the nature of an act of plunder, became an extension of relief, of indulgence, and of accommodation? But, however, he would not be content, like Mr Hastings, with barely making assertions, or, when made against his statement, with barely denying them; on the contrary,

whenever he objected to a single statement, he would bring his refutation, and almost in every instance Mr Hastings himself should be his witness. By the passages which he should beg leave to read, Mr Hastings wished to insinuate that a claim was set up, in the year 1775, to the treasure of the Begums, belonging of right to the Nabob. Mr Sheridan, from a variety of documents, chiefly from the minutes of the Supreme Council, of which Mr Hastings had been the president, explained the true state of that question. Treasure, which was the source of all the cruelties, was the original pretence which Mr Hastings had made to the Company for the proceeding; and through the whole of his conduct he had alleged the principles of Mahomedanism in mitigation of the severities he had sanctioned; as if he meant to insinuate that there was something in Mahomedanism which rendered it impious in a son not to plunder his mother. But to show how the case precisely stood when Mr Hastings began the attacks, Mr Sheridan read the minutes of General Clavering, Colonel Monson, and Mr Francis, who severally spoke of a claim which had been made by the Nabob on the Bhow Begum, in the year 1775, amounting to two one-half lacs. The opinion contained on those minutes was, that women were, on the death of their husbands, entitled by the Mahomedan law only to the property within the Zenana where they lived. This opinion was decisive—Mr Bristow used no threats—no military execution or rigour was even menaced; the Begums complied with the requisition then made, and the disputed property then claimed was given up. After this, the further treasure, namely, that which was within the Zenana, was confessedly her own. No fresh right was set up —no pretence was made of any kind to the residue—nay, a treaty was signed by the Nabob, and ratified by the resident, Mr Bristow, that, on her paying thirty lacs, she should be freed from all further application; and the Company were bound, by Mr Bristow, to guarantee this treaty. Here then was the issue. After this treaty thus ratified, could there be an argument as to the right of the treasure of the Begums? And if the Mahomedan law had ever given a right, was not that right then concluded? To prove, however, the reliance which the Princesses of Oude had entertained, even in the year 1775, of receiving protection and support from the British government —an expectation so fatally disappointed in latter times—Mr Sheridan read an extract of a letter from the Begum, the mother of the Nabob, to Mr Hastings, received at Calcutta December 22, 1775, wherein she says, 'If it is your pleasure that the mother of the late Nabob, myself, and his other women, and infant children, should be reduced to a state of dishonour and distress, we must submit; but if, on the contrary, you call to mind the friendship of the late blessed Nabob, you will exert yourself effectually in favour of us who are helpless.' And, again, 'If you do not approve of my remaining at Fyzabad, send a person here in your name, to remove the mother of the late Nabob, myself, and about 2000 other women and children, that we may reside with honour and reputation in some other place.' Mr Sheridan, in a regular progression of evidence, proceeded to state the succes-

sive periods, and finally to bring down the immediate subject in question to the day in which Mr Hastings embraced the project of plundering the Begums; and to justify which, he had exhibited in his defence four charges against them, as the grounds and motives of his own conduct.

" 1. That they had given disturbance at all times to the government of the Nabob, and that they had long manifested a spirit hostile to his and to the English government.

" 2. That they excited the Zemindars to revolt, at the time of the insurrection at Benares, and of the resumption of the Jaghires.

" 3. That they resisted by armed force the resumption of their own Jaghires; and,

" 4. That they excited, and were accessary to, the insurrection at Benares.

" To each of these charges Mr Sheridan gave distinct and separate answers. First, on the subject of the imputed disturbances which they were falsely said to have occasioned, he could produce a variety of extracts, many of them written by Mr Hastings himself, to prove that, on the contrary, they had particularly distinguished themselves by their friendship for the English, and the various good offices which they had rendered the government.

" Mr Hastings (Mr Sheridan observed) left Calcutta in 1781, and proceeded to Lucknow, as he said himself, with two great objects in his mind; namely, Benares and Oude. What was the nature of these boasted resources? that he should plunder one or both—the equitable alternative of a highwayman, who, in going forth in the evening, hesitates which of his resources to prefer, Bagshot or Hounslow. In such a state of generous irresolution did Mr Hastings proceed to Benares and Oude. At Benares he failed in his pecuniary object. Then, and not till then—not on account of any ancient enmities shown by the Begums—not in resentment of any old disturbances, but because he had failed in one place, and had but two in his prospect, did he conceive the base expedient of plundering these aged women. He had no pretence, he had no excuse, he had nothing but the arrogant and obstinate determination to govern India by his own corrupt will, to plead for his conduct. Inflamed by disappointment in his first project, he hastened to the fortress of Chunar, to meditate the more atrocious design of instigating a son against his mother, of sacrificing female dignity and distress to parricide and plunder. At Chunar was that infamous treaty concerted with the Nabob Vizier,* to despoil the Princesses of Oude of their hereditary possessions; there it was that Mr Hastings had stipulated with one, whom he called an independent prince, ' that as great distress had arisen to the Nabob's government from the military power and dominion assumed by the Jaghiredars, he be permitted to resume such as he may find necessary; with a reserve, that all such, for the amount of whose Jaghires the Company are guarantees, shall, in case of the resumption of their lands, be paid the amount of their

* Asoff-u-Dowla.

net collections, through the resident, in ready money; and that no English resident be appointed to Furruckabad.'

"No sooner was this foundation of iniquity thus instantly established, in violation of the pledged faith and solemn guarantee of the British government; no sooner had Mr Hastings determined to invade the substance of justice, than he resolved to avail himself of her judicial forms; and accordingly despatched a messenger for the Chief Justice of India, to assist him in perpetrating the violations he had projected. Sir Elijah having arrived, Mr Hastings, with much art, proposed a question of opinion, involving an unsubstantiated fact, in order to obtain even a surreptitious approbation of the measure he had predetermined to adopt. 'The Begums being in actual rebellion, might not the Nabob confiscate their property?' 'Most undoubtedly,' was the ready answer of the friendly judge. Not a syllable of inquiry intervened as to the existence of the imputed rebellion; nor a moment's pause as to the ill purposes to which the decision of a Chief Justice might be perverted. It was not the office of a friend to mix the grave caution and cold circumspection of a judge, with an opinion taken in such circumstances; and Sir Elijah had previously declared, that he gave his advice, not as a judge, but as a friend: a character he equally preferred, in the strange office which he undertook, of collecting defensive affidavits on the subject of Benares.

"Mr Sheridan said, it was curious to reflect on the whole of Sir Elijah's circuit at that perilous time. Sir Elijah had stated his desire of relaxing from the fatigues of office, and unbending his mind in a party of health and pleasure: yet, wisely apprehending that very sudden relaxation might defeat its object, he had contrived to mix some matters of business to be interspersed with his amusements. He had, therefore, in his little airing of nine hundred miles, great part of which he went post, escorted by an army, selected those very situations where insurrection subsisted and rebellion was threatened; and had not only delivered his deep and curious researches into the laws and rights of nations and of treaties, in the capacity of the Oriental Grotius, whom Warren Hastings was to study; but likewise in the humbler and more practical situation of a collector of *ex parte* evidence. In the former quality, his opinion was the premature sanction for plundering the Begums; in the latter character, he became the posthumous supporter of the expulsion and pillage of the Rajah Cheit Sing. Acting on an unproved fact, on a position as a datum of the Duke of Richmond's fabrication, he had not hesitated, in the first instance, to lend his authority as a license for unlimited persecution. In the latter, he did not disdain to scud about India, like an itinerant informer, with a pedlar's pack of garbled evidence and surreptitious affidavits. What pure friendship, what a voucher of unequivocal attachment, from a British judge to such a character as Warren Hastings! With a generous oblivion of duty and of honour; with a proud sense of having authorised all future rapacity, and sanctioned all past oppression, this friendly judge proceeded on his circuit of health and ease; and whilst the Governor-general, sanctioned by this solemn opinion, issued his orders to plunder the Begums

of their treasure, Sir Elijah pursued his progress; and, passing through a wide region of distress and misery, explored a country that presented a speaking picture of hunger and of nakedness, in quest of objects best suited to his feelings, in anxious search of calamities most kindred to his invalid imagination.

"Thus, whilst the executive power in India was perverted to the most disgraceful inhumanities, the judicial authority also became its close and confidential associate; at the same moment that the sword of government was turned to an assassin's dagger, the pure ermine of justice was stained and foiled with the basest and meanest contamination. Under such circumstances did Mr Hastings complete the treaty of Chunar: a treaty which might challenge all the treaties that ever susbisted, for containing in the smallest compass the most extensive treachery. Mr Hastings did not conclude that treaty till he had received from the Nabob a present, or rather a bribe, of £100,000.

"The circumstances of this present were as extraordinary as the thing itself. Four months afterwards, and not till then, Mr Hastings communicated the matter to the Company. Unfortunately for himself, however, this tardy disclosure was conveyed in words which betrayed his original meaning; for, with no common incaution, he admits the present '*was of a magnitude not to be concealed.*' Mr Sheridan stated all the circumstances of this bribe; and averred that the whole had its rise in a principle of rank corruption. For what was the consideration for this extraordinary bribe? No less than the withdrawing from Oude not only all the English gentlemen in official situations, but the whole also of the English army; and that, too, at the very moment when he himself had stated the whole country of Oude to be in open revolt and rebellion. Other very strange articles were contained in the same treaty, which nothing but this infamous bribe could have occasioned, together with the reserve which he had in his own mind of treachery to the Nabob; for the only part of the treaty which he ever attempted to carry into execution was to withdraw the English gentlemen from Oude. The Nabob, indeed, considered this as essential to his deliverance; and his observation on the circumstance was curious; for though Major Palmer, said he, has not yet asked anything, I observe it is the custom of the English gentlemen constantly to ask for something from me before they go. This imputation on the English Mr Hastings was most ready, most rejoiced, to countenance as a screen and shelter for his own abandoned profligacy; and therefore, at the very moment that he pocketed the extorted spoils of the Nabob, with his usual grave hypocrisy and cant, 'Go,' he said to the English gentlemen, 'go, you oppressive rascals, go from this worthy unhappy man, whom *you* have plundered, and leave him to *my* protection. You have robbed him—you have plundered him—you have taken advantage of his accumulated distresses; but, please God, he shall in future be at rest; for I have promised him he shall never see the face of an Englishman again.' This, however, was the only part of the treaty which he even affected to fulfil; and, in all its

other parts, we learn from himself, that at the very moment he made it he intended to deceive the Nabob; and accordingly, he advised *general* instead of *partial* resumption, for the express purpose of defeating the first views of the Nabob; and, instead of giving instant and unqualified assent to all the articles of the treaty, he perpetually qualified, explained, and varied them with new diminutions and reservations. Mr Sheridan called upon gentlemen to say, if there was any theory in Machiavel, any treachery upon record, if they had ever heard of any cold Italian fraud which could in any degree be put in comparison with the disgusting hypocrisy, and unequalled baseness, which Mr Hastings had shown on that occasion.

"After having stated this complicated infamy in terms of the severest reprehension, Mr Sheridan proceeded to observe, that he recollected to have heard it advanced by some of those admirers of Mr Hastings, who were not so implicit as to give unqualified applause to his crimes, that they found an apology for the atrocity of them, in the greatness of his mind. To estimate the solidity of such a defence, it would be sufficient merely to consider in what consisted this prepossessing distinction, this captivating characteristic of greatness of mind. Is it not solely to be traced in great actions directed to great ends? In them, and them alone, we are to search for true estimable magnanimity. To them only can we justly affix the splendid title and honours of real greatness. There was, indeed, another species of greatness, which displayed itself in boldly conceiving a bad measure, and undauntedly pursuing it to its accomplishment. But had Mr Hastings the merit of exhibiting either of these descriptions of greatness—even of the latter? He saw nothing great, nothing magnanimous, nothing open, nothing direct in his measures or in his mind; on the contrary, he had too often pursued the worst objects by the worst means. His course was an eternal deviation from rectitude. He either tyrannised or deceived; and was by turns a Dionysius and a Scapin. As well might the writhing obliquity of the serpent be compared to the swift directness of the arrow, as the duplicity of Mr Hastings's ambition to the simple steadiness of genuine magnanimity. In his mind all was shuffling, ambiguous, dark, insidious, and little; nothing simple, nothing unmixed; all affected plainness, and actual dissimulation; a heterogeneous mass of contradictory qualities; with nothing great but his crimes; and even those contrasted by the littleness of his motives, which at once denoted both his baseness and his meanness, and marked him for a traitor and a trickster. Nay, in his style and writing there was the same mixture of vicious contrarieties; the most groveling ideas were conveyed in the most inflated language; giving mock consequence to low cavils, and uttering quibbles in heroics; so that his compositions disgusted the mind's taste, as much as his actions excited the soul's abhorrence. Indeed, this mixture of character seemed, by some unaccountable, but inherent quality, to be appropriated, though in inferior degrees, to everything that concerned his employers. He remembered to have heard an honourable and learned gentleman (Mr Dundas) remark, that there was something in the first frame and constitution of the

Company, which extended the sordid principles of their origin over all their successive operations; connecting with their civil policy, and even with their boldest achievements, the meanness of a pedlar, and the profligacy of pirates. Alike in the political and the military line could be observed auctioneering ambassadors and trading generals; and thus we saw a revolution brought about by affidavits; an army employed in executing an arrest; a town besieged on a 'note of hand;' a prince dethroned for the 'balance of an account.' Thus it was they exhibited a government which united the mock majesty of a bloody sceptre and the little traffic of a merchant's counting-house, wielding a truncheon with one hand, and picking a pocket with the other. Mr Sheridan now went into a long statement to show the various irrefragable proofs exhibited in the minutes of the Bengal council, of the falsity of the charge, viz., that the Begums were the ancient disturbers of the government. And equally to prove that the second charge also (namely, that the Begums had incited the Jaghiredars to resist the Nabob) was no less untrue; it being substantiated in evidence that not one of the Jaghiredars did resist.

"Mr Sheridan maintained that it was incontrovertible that the Begums were not concerned either in the rebellion of Bulbudder, or the insurrection at Benares; nor did Mr Hastings ever once *seriously* believe them guilty. Their *treasures* were their *treasons*, and Asoph ul Dowlah thought like an unwise prince, when he blamed his father for leaving him so little wealth. His father, Shulah ul Dowlah, acted wisely in leaving his son with no temptation about him, to invite acts of violence from the rapacious. He clothed him with poverty as with a shield, and armed him with necessity as with a sword.

"The third charge was equally false. Did they resist the resumption of their own Jaghiredars? Though, if they *had* resisted, he contended that there would have been no crime; for those Jaghiredars were by solemn treaty confirmed to them; but, on the contrary, there was not one syllable of charge against them. The Nabob himself, with all the load of obloquy which he incurred, never imputed to them the crime of stirring up an opposition to his authority.

"To prove the falsehood of the whole of this charge, and to show that Mr Hastings originally projected the plunder; that he threw the odium, in the first instance, on the Nabob; that he imputed the crimes to them before he had received one of the rumours which he afterwards manufactured into affidavits, Mr Sheridan recommended a particular attention to dates; and he deduced from the papers these facts:—that the first idea was started by Mr Hastings, on the 15th of November, 1781; that Mr Middleton communicated it to the Nabob, and procured from him a formal proposition on the 2nd of December; that on the 1st of December Mr Hastings wrote a letter to Mr Middleton, confirming the first suggestion made through Sir Elijah, which letter came into the hands of Mr Middleton on the 6th of December. He stated all the circumstances of the pains taken by Mr

Middleton to bring the Nabob at length to issue with the Perwannas, and coupled this with the extraordinary minute written by Mr Hastings on his return to Calcutta, where he stated the resistance of the Begums to the execution of the resumption on the 7th of January, 1782, as the cause of the measure in November, 1781. Mr Sheridan then proceeded to prove that the Begums were, by their condition, their age, and their infirmities, almost the only souls in India who could not have a thought of distressing that government by which alone they could hope to be protected; and that to charge them with a design to depose their nearest and dearest relation, was equally absurd. He did not endeavour to do this from any idea that because there was no motive for the offences imputed to these women, it was therefore a necessary consequence that such imputations were false. He was not to learn that there was such a crime as wanton, unprovoked wickedness. Those who entertained doubts on this point need only give themselves the trouble of reading the administration of Mr Hastings. But, as to the immediate case, the documents on the table would bear incontrovertible testimony that insurrections had constantly taken place in Oude. To ascribe it to the Begums was wandering even beyond the improbabilities of fiction. It were not less absurd to affirm, that famine would not have pinched, nor thirst have parched, nor extermination have depopulated—but for the interference of these old women. To use a strong expression of Mr Hastings on another occasion, 'The good which those women did was certain—the ill was precarious.' But Mr Hastings had found it more suitable to his purposes to reverse the proposition; yet, wanting a motive for his rapacity, he could find it only in fiction. The simple fact was, their treasure was their treason. But 'they complained of the injustice.' God of Heaven! had they not a right to complain? After a solemn treaty violated; plundered of all their property, and on the eve of the last extremity of wretchedness, were they to be deprived of the last resource of impotent wretchedness—complaint and lamentation? Was it a crime that they should crowd together in fluttering trepidation like a flock of resistless birds on seeing the felon kite, who, having darted at one devoted bird, and missed his aim, singled out a new object, and was springing on his prey with redoubled vigour in his wing, and keener vengeance in his eye? The fact with Mr Hastings was precisely this:—Having failed in the case of Cheit Sing, he saw his fate; he felt the necessity of procuring a sum of money somewhere, for he knew that to be the never-failing receipt to make his peace with the Directors at home. Such, Mr Sheridan added, were the true substantial motives of the horrid excesses perpetrated against the Begums!—excesses, in every part of the description of which, he felt himself accompanied by the vigorous support of the most unanswerable evidence; and upon this test would he place his whole cause. Let gentlemen lay their hands upon their hearts, and with truth issuing in all its purity from their lips, solemnly declare whether they were or were not convinced that the real spring of the conduct of Mr Hastings, far from being a desire to crush a rebellion, (an ideal, fabulous rebellion!)

was a malignantly rapacious determination to seize, with lawless hands, upon the treasures of devoted, miserable, yet unoffending victims.

"Mr Sheridan now adverted to the affidavit made by Mr Middleton; and after stating how futile were the grounds upon which he had, to the satisfaction of his conscience, proceeded to the utmost extremity of violence against the Begums, he exclaimed, the God of Justice forbid that any man in this House should make up his mind to accuse Mr Hastings on the ground which Mr Middleton took for condemning the Begums; or to pass a verdict of 'guilty' for the most trivial misdemeanour against the poorest wretch that ever had existed. He then revised and animadverted on the affidavits of Colonel Hannay, Colonel Gordon, Major M'Donald, Major Williams, and others. Major Williams, among the strange reports that chiefly filled these affidavits, stated one that he had heard—namely, that fifty British troops, watching two hundred prisoners, had been surrounded by six thousand of the enemy, and relieved by the approach of nine men. And of such extraordinary hearsay evidence were most of the depositions composed. Considering, therefore, the character given by Mr Hastings to the British army in Oude, 'that they manifested a rage for rapacity and peculation,' it was extraordinary that there were no instances of stouter swearing. But as for Colonel Gordon, he afforded a flagrantly conspicuous proof of the grateful spirit and temper of affidavits designed to plunge these wretched women in irretrievable ruin. Colonel Gordon was, just before, not merely released from danger, but preserved from imminent death, by the very person whose accuser he thought fit to become; and yet, incredible as it may appear, even at the expiration of two little days from his deliverance, he deposes against the distressed and unfortunate woman who had become his saviour, and, only upon hearsay evidence, accuses her of crimes and rebellion. Great God of Justice! (exclaimed Mr Sheridan,) canst thou from thy eternal throne look down upon such premeditated turpitude of heart, and not fix some mark of dreadful vengeance upon the perpetrators?—Of Mr M'Donald, he said, that he liked not the memory which remembered things better at the end of five years than at the time, unless there might be something so relaxing in the climate of India, and so affecting the memory as well as the nerves, 'the soft figures melting away,' and the images of immediate action instantaneously dissolving, men must return to their native air of England, to brace up the mind as well as the body, and have their memories, like their sinews, restrung.

"Having painted the loose quality of the affidavits, he said, that he must pause a moment, and particularly address himself to one description of gentlemen, those of the learned profession, within those walls. They saw that that House was the path to fortune in their profession; that they might soon expect that some of them were to be called to a dignified situation, where the great and important trust would be reposed in them of protecting the lives and fortunes of their fellow-subjects. One right honourable and learned gentleman, in particular (Sir Lloyd Kenyon), if rumour spoke right, might suddenly be called to succeed that great and venerable character who

long had shone the brightest luminary of his profession, whose pure and steady light was clear even to its latest moment, but whose last beam must now too soon be extinguished. That he would ask the supposed successor of Lord Mansfield, to calmly reflect on these extraordinary depositions, and solemnly to declare, whether the mass of affidavits taken at Lucknow would be received by him as evidence to convict the lowest object in this country? If he said it would, he declared to God he would sit down and not add a syllable more to the too long trespass which he had made on the patience of the committee."

Mr Sheridan went further into the exposure of the evidence, into the comparison of dates, and the subsequent circumstances, in order to prove that all the enormous consequence which followed from the resumption, in the captivity of the women, and the imprisonment and cruelties practised on their people, were solely to be ascribed and to be imputed to Mr Hastings. After stating the miseries which the women suffered, he said that "Mr Hastings had once remarked, that a mind touched with superstition might have contemplated the fate of the Rohillas with peculiar impressions. But if, indeed, the mind of Mr Hastings could yield to superstitious imagination; if his fancy could suffer any disturbance, and, even in vision, image forth the proud spirit of Sujah Dowlah, looking down upon the ruin and devastation of his family, and beholding that palace which Mr Hastings had first wrested from his hand, and afterwards restored, plundered by that very army with which he himself had vanquished the Mahrattas; seizing on the very plunder which he had ravaged from the Rohillas; that Middleton, who had been engaged in managing the previous violations, most busy to perpetrate the last; that very Hastings, whom, on his death-bed, he had left the guardian of his wife, and mother, and family, turning all those dear relations, the objects of his solemn trust, forth to the merciless seasons, and to a more merciless soldiery! A mind touched with superstition must indeed have cherished such a contemplation with peculiar impressions! That Mr Hastings was regularly acquainted with all the enormities committed on the Begums, there was the clearest proof. It was true that Middleton was rebuked for not being more exact. He did not, perhaps, descend to the detail; he did not give him an account of the number of groans which were heaved; of the quantity of tears which were shed; of the weight of the fetters; or of the depth of the dungeons; but he communicated every step which he took to accomplish the base and unwarrantable end. He told him, that, to save appearances, they must use the name of the Nabob, and that they need go no further than was absolutely necessary: this he might venture to say without being suspected by Mr Hastings of too severe a morality. The Governor-general also endeavoured to throw a share of the guilt on the Council, although Mr Wheeler had never taken any share, and Mr Macpherson had not arrived in India when the scene began. After contending that he had shrunk from the inquiry ordered by the Court of Directors, under a new and pompous doctrine, that the majesty of justice was to be approached with sup-

plication, and was not to degrade itself by hunting for crimes; forgetting the infamous employment to which he had appointed an English chief-justice, to hunt for criminal charges against innocent, defenceless women; Mr Sheridan said, he trusted that that House would vindicate the insulted character of justice; that they would demonstrate its true quality, essence, and purposes—they would demonstrate it to be, in the case of Mr Hastings, active, inquisitive, and avenging.

"Mr Sheridan remarked, that he heard of factions and parties in that House, and knew they existed. There was scarcely a subject upon which they were not broken and divided into sects. The prerogative of the Crown found its advocates among the representatives of the people. The privileges of the people found opponents even in the House of Commons itself. Habits, connexions, parties, all led to diversity of opinion. But when inhumanity presented itself to their observation, it found no division among them: they attacked it as their common enemy; and, as if the character of this land was involved in their zeal for its ruin, they left it not till it was completely overthrown. It was not given to that House, to behold the objects of their compassion and benevolence in the present extensive consideration, as it was to the officers who relieved, and who so feelingly described the ecstatic emotions of gratitude in the instant of deliverance. They could not behold the workings of the heart, the quivering lips, the trickling tears, the loud and yet tremulous joys of the millions whom their vote of this night would for ever save from the cruelty of corrupted power. But, though they could not directly see the effect, was not the true enjoyment of their benevolence increased by the blessing being conferred unseen? Would not the omnipotence of Britain be demonstrated to the wonder of nations, by stretching its mighty arm across the deep, and saving, by its *fiat*, distant millions from destruction? And would the blessings of the people thus saved, dissipate in empty air? No! if I may dare to use the figure, we shall constitute Heaven itself our proxy, to receive for us the blessings of their pious gratitude, and the prayers of their thanksgiving. It is with confidence, therefore, Sir, that I move you on this charge, 'That Warren Hastings be impeached.'"

The effect of this speech on the House was such, that an adjournment was carried without a division, in order to allow time for the mind of the committee to cool, as it was impossible, after the eloquence displayed by Mr Sheridan, to act dispassionately.

Mr Burke declared the speech to be the most astonishing effort of eloquence, argument, and wit united, of which there was any record or tradition. Mr Fox said, "All that he had ever heard, all that he had ever read, when compared with it, dwindled into nothing, and vanished like vapour before the sun;" and Mr Pitt acknowledged, that "it surpassed all the eloquence of ancient or modern times, and possessed everything that genius or art could furnish to agitate or control the human mind."

The debate was resumed on the following day, when the motion for the impeachment on this charge was carried by 175 to 68.

Speech on opening the seventh charge against Warren Hastings, accusing him of corruptly receiving presents, in direct violation of the Regulation Act of 1773. 2d April, 1787. The House being in committee.

Mr Sheridan rose, and desired that a clause of the act of 1773 might be read. It was accordingly read, as follows:—"No Governor-general, nor any of the Council, shall, directly or indirectly, accept, receive, or take from any person or persons, on any account whatsoever, any present, gift, donation, gratuity, or reward, pecuniary or otherwise, or any promise or engagement for any of the aforesaid."

The preceding abstract having been read, Mr Sheridan "begged leave to call to the recollection of the committee the favour which a right honourable friend (Mr Burke) had conferred upon him, when he informed them that it was his (Mr Sheridan's) intention to use as much brevity in opening the charge upon the subject of the presents, as possible. In this declaration his right honourable friend had certainly spoken his sentiments; and, as a part of the evidence given during the course of the preceding Friday threw a decided light upon some of the facts which were, previously to the intervention of that complete elucidation, in some degree obscured and doubtful, he felt, with redoubled force, his early and indisputable conviction, that brevity and perpicuity were the only matters necessary to imprint the truth of the facts contained in the charge upon the perceptions of the committee; and to press home to their minds a lively and indignant sense of the enormity of the crimes of Mr Hastings, as exemplified in these several and distinctly alleged accusations, if either the one or the other point remained yet to be accomplished. Honoured, upon a former occasion, with the almost unprecedented indulgence of the committee, he would not offer so ungrateful a return to the liberality of their feelings, as to suppose that they would not do him the justice to believe that it was far indeed from any great willingness on his part that he had been induced to trespass a second time upon their patience; but, when he remembered that it would ill become him to refuse his feeble aid to those who had, with equal zeal in this momentous cause, stepped forward, as much as it was possible, under the inevitable restraints of an attention divided by occupations more multiplied and varied than his own; when he considered the importance of the proceeding with respect to the impeachment of Mr Hastings; when he reflected how much the character of that House and its honour, and (what was still more material) the honour and the justice of the country, were implicated in the business; when he consulted his own serious and sincere feelings on the subject, he could not refuse to lend himself to the occasion, and discharge his duty, by exerting his best endeavours to accelerate the progress of this interesting business, by assisting to draw it nearer to that conclusion, of which the distance appeared, at last, considerably diminished. The subject which, at present, demanded an investigation, was necessarily much colder and drier than that which, upon a preceding occasion, he had been so liberally permitted to state to the committee. No horrible accounts of the sacrilegious plunder of defenceless parents, were now to be addressed

to their painfully-excited notice ; no enumeration of barbarities perpetrated against the aged and guiltless mothers by their unnatural offspring ; but the narration was nevertheless equally, if not still more important, as it went to establish the stubborn fact, that corruption had been the leading principle of all the actions of Mr Hastings in India ! though, heaven forbid that Mr Hastings should prove guilty to the extent set up by his friends, in what had been denominated his defence ! Perhaps more hostile, than truly serviceable, was the anxiety with which the advocates of this gentleman met the deserved attack upon his flagrantly-reprehensible administration in the East Indies. They seemed mortally to have wounded the cause, by the rash eagerness which they discovered to support it, and by the firmness with which they were determined to bring resistance against every endeavour to assail it. They appeared unwilling to admit, that Mr Hastings in India was a man of unbounded power ; and that by this power he kept the whole body of natives in awe and terror. Once, indeed, (Mr Sheridan added) he thought him free from the vices of avarice and corruption ; but, now, he had changed his opinion. These most unfortunate vindicators, themselves demolishing their own frail plans of exculpation, had, indeed, already anticipated the accusation in that House ; and in no particular did their zeal so far outstrip their discretion. Such rash defenders of his conduct, aware that scarcely any attainment was wanting except a conviction of the receipt of presents, and of an accumulation of private douceurs, to blacken the catalogue of his crimes, and to destroy all those pretensions which could in the minds of men soften their asperity, and allay their indignation at his enormities, had violently affirmed that Mr Hastings did not amass treasures for his own use ; was not corrupt for interested purposes ; and, although, perhaps, improvident and profuse, was not mercenary, and, by a natural consequence, not rich.* But it indispensably behoved them to go beyond the frivolous attempt to establish such positions by mysterious excuses, and language so implicated as to become nearly unintelligible. They should have placed their vindications of him upon the broad and immoveable corner-stone of truth ; upon down-right fair and absolute proofs ; and this the more especially, because, if the points for which they, with so blind a vehemence, had contended, were open to the admission of proofs, the means of introducing them were certainly in their power. Vainly, indeed, had these imprudent friends of Mr Hastings exerted the faculties of their invention, to puzzle and to confound the mind ; nor was it astonishing that such extraordinary pains had proved the cause of raising a proportionate suspicion ; for in this, as in the generality of similar instances, when genius became racked under the consciousness of guilt, the ardour of defence left its propriety at an irrecoverable and shameful distance. There was an infirmity, a weakness, a something not to be described in human nature, which almost insensibly led men to think less of the foibles or the crimes of such individuals, whilst it could be proved they had not been

* Major Scott, a zealous defender of Warren Hastings, had on one occasion positively asserted that the Governor-general's fortune did not exceed £50,000.

actuated by mercenary motives; that they had not proceeded upon a principle of personal avarice; and that the increase of their own private property had not been the object of either their rapacity or their oppression. Swayed and influenced by this sort of weakness, Mr Sheridan declared he had been among those who, at one time, conceived that Mr Hastings was not stimulated in his conduct, as Governor-general, by any view to his own emolument; and that his fortune was trifling, compared with the advantages which fell within his power. But the more close and minute investigation which it was his duty to apply to the facts contained in the charge, had completely altered his opinion; and he scarcely harboured even the slightest doubt of being able to satisfy the committee, that Mr Hastings had all along governed his conduct by corruption, as gross and determined, as his oppression and injustice had proved severe and galling. In reviewing his conduct, he had found it to spring from a wild, eccentric, and irregular mind. He had been everything by fits and starts. Now proud and lofty; now mean and insidious; now generous; now just; now artful; now open; now deceitful; now decided; in pride, in passion, in everything changeable, except in corruption. In corruption he had proved uniform, systematic, and methodical; his revenge a tempest, a tornado, blackening, in gusts of pride, the horizon of his dominion; and carrying all before it.

"Mr Sheridan added, that, whilst he relied upon the power of exposing fully to the view of the committee the criminal proceedings of Mr Hastings, he could not avoid observing that the nature of his private transactions was such as rendered it, in general, extremely difficult to drag them out into a full light. They were the deeds of privacy, enveloped in a cloud of mystery. The committee (Mr Sheridan said) would please to recollect the history of the act of 1773, which was passed with a view to deliver the princes of India, and the natives in general, from the consequences of the rapacity of the Company's servants. They must well remember that it did, in the most clear and comprehensive terms which could be devised, prohibit all the said servants from receiving any present, gift, or donation, in any manner, or on any account whatsoever. That act, when it left the House of Commons in the form of a bill, had no clause in it authorising the institution of a civil suit; but merely contained the authority and grounds of criminal prosecution of the parties accused of having violated positive injunctions. When the bill, however, came into the House of Lords, although the Commons had been satisfied with the fair prospect of a future security, and prevention of the evil which it held out, a noble earl, of the highest law authority (Earl Mansfield), expressed a different opinion; and had deemed it so necessary to take all possible means of putting a stop to a practice so oppressive to the natives of India, and so disgraceful to the British name and character, that he inserted a clause, declaring that all presents accepted by the Company's servants, on any account whatsoever, were the property of the Company; not meaning it as a fund for their benefit, but only in order to found a legal title to a civil suit, upon what is termed a fiction of law. Thus strengthened, the bill passed,

and went out to India.* The construction, however, which Mr Hastings put upon it was, that, by the regulating act of 1773, he remained at liberty to receive money, provided that it was to and for the use of the Company; and, under this construction he *did*, in a variety of instances, violate as clear and obvious an act of parliament as ever had passed—an act of parliament, concerning the legal meaning of which he (Mr Sheridan) was persuaded there was scarcely a lawyer in the House who would stand up and declare that he had at *any* time entertained the smallest doubt, or felt the least difficulty. It might be most unanswerably proved, from the words of Mr Hastings, that even he, notwithstanding his ungovernable infringement of so positive and plain a law, considered the act as amounting, under all descriptions whatsoever, to an absolute prohibition. When Colonel Champion,† in his letter written to this gentleman, requested to know from him whether he should be justified in receiving a present offered to him, the Governor-general answered, that the act was so strict and specific in its injunction, as to admit of no palliative—of no discretion on the part of the conduct of the servants of the East India Company; that it was so plain, it could not be

* The following are the sections of the regulating act (13 Geo. III., c. 63) in point:—

Sec. xxii. "And be it further enacted by the authority aforesaid, that no Governor-general, or any of the Council of the said United Company's presidency of Fort William, in Bengal, or any chief justice or any of the judges of the Supreme Court of Judicature at Fort William aforesaid, shall directly or indirectly, by themselves or by any other person or persons, for his or their use, or on his or their behalf, accept, receive, or take of or from any person or persons, in any manner or on any account whatsoever, any present, gift, donation, gratuity, or reward, pecuniary or otherwise, or any promise or engagement for any present, gift, donation, gratuity, or reward; and that no Governor-general, or any of the said Council, or any chief justice or judge of the said Court, shall carry on, or be concerned in, or have any dealing or transactions by way of traffic or commerce of any kind whatsoever, either for his or their use or benefit, profit or advantage, or for the benefit or advantage of any other person or persons whatsoever (the trade and commerce of the said United Company only excepted); any usage or custom to the contrary thereof in any wise notwithstanding."

Sec. xxiv. enacts that no person holding a civil or military office under the Crown shall accept any donation or gratuity.

Sec. xxvi. "And it is hereby further enacted, by the authority aforesaid, that every such present, gift, gratuity, donation, or reward accepted, taken, or received, and all such dealing or transaction by way of traffic or commerce of any kind whatsoever, carried on contrary to the true intent and meaning of this act, shall be deemed and construed to have been received, taken, had, and done to and for the sole use of the said United Company; and that the said United Company, upon waiving all penalties and forfeitures, shall and may sue and prosecute for the recovery of the same, or the full value of such present or gift, or the profits of such trade, respectively, together with interest at the rate of £5 per cent. per annum, from the time of such present, gift, gratuity, donation, or reward being received, or of such dealing or transaction, by way of traffic or commerce, as aforesaid, by action, for money had and received, to the use of the said Company."

† The officer employed in the odious service of the subjugation of the Rohillas, in 1774.

misinterpreted; and so strict, it could not be infringed. And surely (said Mr Sheridan) it was with this view only that the act was carried into a law by the British legislature, who could not mean to transfer to the Company the exclusive privilege of that injustice, from which its servants were so strictly prohibited? It was a libel on the Parliament, to think they could intend to confer such an illegal and despotic power. Mr Hastings had also ventured to ask, whether, under the penalties denounced in the clause, it could, with the least shadow of reason, be concluded that, if he designed to violate it by recovering money for his own private use, he would either select as his agents the public officers of the East India Company—all men of established characters—or pay the sums which he meant to appropriate to his own purposes into the treasury of the Company? A totally overthrowing answer to this question would be involved in the proofs now ready to be offered to the committee, that Mr Hastings had not suffered all the little sums which he took privately, either to pass through the hands of the public officers of the East India Company, or to be paid into the treasury. On several occasions he employed his own agents;—if not, where was the possibility of accounting for his declaration to the Court of Directors, that the receipt of three lacks from Nobkissen* might, if he had thought proper, have been concealed from their knowledge for ever? And thus it was, that, with a disrespectful haughtiness, Mr Hastings took the liberty to upbraid and censure the Directors of the East India Company for ever taking his conduct into consideration; or questioning *him* in respect to that which they had a right to know. He, besides, libelled them with the intimation that, unless they would connive at his keeping his share, they should not participate in the plunder. He urged them to say—'For taking the money you are censurable; but, in applying it to our use, you are deserving of praise.' And such would virtually be their declaration (a species of logic well calculated to set his mind at rest!) if they granted him, on this head, that full and direct acquittal which he claimed and expected.

"Besides his plea of the construction of the Act, which he set up in opposition to the obvious meaning of it, he vindicated himself in the transgression of his orders from the Court of Directors, whenever their sense could not be twisted, by the arguments of state-necessity. This necessity, however, which goes so far as to supersede all positive instructions, should be evident as well as urgent. Mr Hastings never attempted to prove the existence of the necessity. The doctrine of the state-necessity, assigned in every case—this new and firm ally of self-interested rapaciousness—was not to be received on the present occasion: the point in question would not warrant the excess of his presumption, when pleading in his defence of the violation of a positive law. Whatever Mr Hastings might have done with the money so extorted, was out of the question; if he had applied it properly, the measure might be suffered to come forward hereafter in extenuation of his guilt; but, in the

* The particulars of this loan to Mr Hastings appear p. 131.

mean time, the committee were to look to his disobedience of orders—to his infringement of the act of parliament. Under this view of the procedure, it must be manifest, that every rupee which he received was taken in full defiance of the law; and that an action would lie against him for the recovery of the penalties. Much had been imputed by him to the generosity of the natives.* He did not question this virtue in the natives of Hindostan, neither did he doubt the expertness of Mr Hastings in working upon it most effectually; for, with so much power in his hands, with an army of fifty or sixty thousand men, he had, most certainly, the means of exciting in their breasts the flame of benevolence! As to the facts of corruptly taking presents, they naturally divided themselves into two heads—those which preceded the regulating act of 1773, and those which subsequently had arisen. He would begin with the latter, as they were more likely to elucidate the whole charge; and, first, he would mention the present of the year 1780, of two lacks of rupees,† received of Cheit Sing, by the hands of his confidential servant, Buxey Sadanund. The present was received in June, but never mentioned to the Directors until the relation of the circumstances formed a part of the contents in Mr Hastings's letter of November in the same year; and then it was not stated from whom the money came. In his defence, Mr Hastings had, for the first time, at the bar of the House, deposed that the money came from Cheit Sing; and that acknowledgment had, perhaps, been occasioned by his having learned that an honourable member (Major Scott) had previously declared, when under examination before the select committee, that the money came from Cheit Sing. Mr Sheridan now read Major Scott's examination; and, commenting upon it, observed, that in one of the answers the honourable gentleman declared he believed Cheit Sing and the other native princes would much rather give Mr Hastings a present of two or more lacks of rupees, then pay them to the Company, as part of their debt to the British Government; a position which clearly proved, not the generosity of the native princes, but that the government of India was founded upon a system of corruption. But, such (it had been urged) were the prejudices of the people! Could it be seriously imagined (and this at a time whilst, as he should beg leave to impress again and again upon the minds of the committee, five lacks of rupees were due from that Rajah to the East India Company) ‡ that, although the acceptance of the gift of the two lacks of rupees by the Governor-general of Bengal was not, perhaps, attended with a promise of a relaxation in the enforcement of the Company's demand, no friendly and seducing hint had been given of so generous a design? A raw and artless

* In March, 1784, when Mr Hastings had arrived at Lucknow, under pretence of settling the affairs of the country, he partially restored the Begums to their estates, in compliance with the wishes of the Directors, but reported that those personages had made a voluntary concession of a large portion of their respective shares.

† Equal to £20,000 sterling.

‡ For the maintenance of the British army.

negotiator might not, indeed, have thought of any compromise; but have pursued the obvious line of conduct to one not half initiated into the practices of extortion. Such ignorance of the true methods of procedure could not, without injustice, be imputed to Mr Hastings! The boon with which this gentleman was privately presented, did not, however, divert his indefatigably faithful zeal from the prosecution of the demand of the East India Company; yet, at the same time, it must be confessed, so valuable a gift was no inconsiderable drawback from the pecuniary powers of the Rajah to satisfy such a demand. And, indeed, the facility with which this plundered individual was made to submit to private extortion, only rendered him a more convenient tool to work upon in every case of public depredation. Two lacks of rupees might be considered merely as a palatable whet to the voracity of his appetite; and more money was the great cure in view for an inveterate disorder, when that wretched invalid, Sir Elijah Impey, underwent a dangerous and most fatiguing journey, purely for the benefit of his health!* With regard to the readiness of the native princes to make presents; let a Governor-general, possessed of all the powers of government, and at the head of an army consisting of 60,000, and sometimes of 100,000 men, led and commanded by European officers, throw himself on the bounty of a people, and, doubtless, (as he before remarked) an unbounded spirit of benevolence would prevail. But to return to the present of Cheit Sing.

"In his defence, Mr Hastings declared that, in 1780, he had formed the plan of drawing Mhadajee Scindia from Guzerat, to the defence of his own dominions, in hopes of laying the foundation of peace with the Mahrattas; but that the plan had been opposed by an honourable gentleman,† on account of the additional expense which it would occasion. About that time, Cheit Sing sent his confidential servant, Buxey Sadanund, to Calcutta, to endeavour to procure a remission of the payment of the annual sum of five lacks of rupees, which the board had fixed as his proportion of the expenses of the war. That request Mr Hastings premptorily refused; but assured Sadanund, that on the restoration of peace, the annual subsidy of five lacks should be discontinued. Sadanund wrote to his master, and received a commission from him to give Mr Hastings the strongest assurances of his future obedience and submission to the orders of government; and he was further directed to request his (Mr Hastings's) acceptance of two lacks of rupees as a present for himself. His reply was, that he cordially received his submission and assurances of obedience, but that he must absolutely refuse his present, which he did. This (Mr Sheridan said) was a sentence in which the words, as the fact afterwards proved, were a little transposed; for the truth was, that Mr Hastings cordially received the present, and absolutely refused to accept Cheit Sing's submission and obedience; since it appeared, that, on

* See page 114.

† Mr Philip Francis, one of the members of the Council of Bengal, which, besides, consisted of the Governor-general, Mr Hastings, General Clavering, the Honourable George Monson, and Mr Richard Barwell.

the 20th, Mr Hastings sent for Sadanund, and told him he had re-considered his master's offer, and would accept the two lacks of rupees; and the very next day (the 21st) he entered the minute under the authority of which the persecution of that unfortunate prince was begun, and from whence it was pursued to his ruin. Other men, perhaps, dissimilar in their views and temper from Mr Hastings, might have deemed it necessary to return the gift at the commencement of hostilities against the Rajah; but the Governor-general, still inviolably faithful to the great principle of his system of peculation, resolved not to lower his importance by giving back that money which he had once so condescendingly agreed to accept! And here, his proud and surly dignity broke out in all its plenitude! Having taken a sum against law, although the purpose for which he grasped at it was frustrated, he scorned either to acknowledge the fact, or to relinquish the money. The reason of this was obvious. Finding Cheit Sing so easy a dupe to private extortion, Mr Hastings instantly marked him out as an object for public plunder. Having stated this transaction, Mr Sheridan took notice of what he styled the strange manner in which Mr Hastings had acted with respect to this present. To read the whole of the correspondence with gravity, was, he declared, utterly impossible; for such a mixture of the diverting and the disgusting appeared in almost every letter, that the effect was at once most laughably ludicrous, and most seriously alarming. But he would just turn to an extract or two relative to the case in point. Mr Sheridan then read a part of Mr Hastings's letter of November, 1780, as follows: 'My present reason for reverting to my own conduct on the occasion which I have mentioned,' (his offering a sum of money for the Company's service) 'is to obviate the false conclusion, or purposed misrepresentations, which may be made of it, either as an artifice of ostentation, or the effect of corrupt influence, by assuring you that the money, by whatever means it came into my possession, was not my own.' Mr Sheridan commented on this, and then stated the conduct of the Directors respecting it, in all whose letters concerning presents, were (he said) to be found declarations to this effect: 'Forasmuch as you have taken presents, we greatly disapprove of your conduct; but, inasmuch as you have applied those presents to the credit of our account, we highly approve of your conduct.' It seemed evident that, upon one occasion, nine lacks of rupees had been received, and only six lacks brought into the treasury of Calcutta: the remaining three were not yet accounted for; unless it could be thought a sufficient elucidation to declare that they were in the hands of Cantoo Baboo, Mr Hastings's black bribe-broker. But, was it probable that this man, absolutely dependent upon the Governor-general, and having amassed an immense fortune under his auspices, could have retained so large a sum of money within his hands? No! suspicion naturally, not to say unavoidably, turned round to the principal. Yet, in their letter of January, 1782, the Directors did not appear to be satisfied with Mr Hastings's account of the whole proceeding, but pronounced it at once extraordinary and mysterious. That it was mysterious was un-

doubtedly true; for, in such facts as taking of presents, and the mode of applying them to the Company's use, he would venture to assert, that there could be no mystery without the excitement of a just suspicion of guilt. The Directors, in their letter, observed, 'It does not appear to us, that there could be any real necessity for delaying to communicate to us immediate information of the channel by which the money came into Mr Hastings's possession, with a complete illustration of the cause or causes of so extraordinary an event.' And, in the same letter, speaking of this sum taken from Cheit Sing, and of other monies of a similar description, they said, 'We shall suspend our judgment, without approving in the least degree, or proceeding to censure, the conduct of our Governor-general for this transaction.' The next time the Directors heard anything more of this, was by a letter, dated the 22nd of May, 1782, as Mr Larkins had sworn; but not sent till the 16th of December in the same year; and, singular was the fate of this letter of the Governor-general, which had, in so extraordinary a manner, been delayed in India! This letter, Mr Larkins, with officious care, would not deliver until the very moment in which the ship sailed, because he well recollected that letters had been either forgotten or mislaid, if given to the captain long before the departure of the vessel. The Resolution was the last ship of the season despatched for Europe, but it was not sufficiently well-manned to carry the Governor-general's letter, although the Governor-general declared that his good genius had dictated its contents. The Resolution was thought safe enough to bring a rich freight, many valuable bills and bonds, and a variety of important letters and despatches; but had the Governor-general's letter had been put on board the vessel, such a weighty cargo would undoubtedly have sunk her to the bottom of the ocean. That packet could only be brought home securely in the Lively. It should appear, therefore, that there was something in the very name of the ship which lent the letter safety, and adapted itself to its style and contents; and yet this most unlucky letter appears, indeed, to have met with as many strange and unexpected disappointments as that written by the miserable Romeo, and entrusted to the care of Friar John.

"How equally unfortunate, also, must it have proved, if the Lively had been absent upon any other station. Some impure article might probably have made its way into the hold of the ill-manned and crazy Resolution! The superstitious piety of Mr Larkins might, perhaps, have inclined him to apprehend, that in such a case the Resolution would have foundered—have sunk, perhaps, in the Ganges, without even one convenient diving negro near to rescue the important letter from the devouring waves! Yet, even thus rescued, the letter might have suffered under a total and dreadfully irremediable obliteration of its interior contents, with not one single vestige of writing left, excepting the address: and, after all, (intrepid though the sailors are) the Resolution had not a crew sufficiently *daring* to venture upon carrying to England . . . the *justification* of Mr Hastings!

"On this occasion, it seemed fair to say, why not send the letter to Madras,

for the chance of a ship from that settlement? Mr Larkins despatched this letter from the country, and to Mr Auriol, the Secretary at Calcutta; yet, he would not touch it, but caused it to be returned, declaring that it was contrary to the act of Parliament for any of the Company's servants to write home to the Directors. Thus it failed in one instance. Mr Sheridan stated how it had failed in others, and traced all the circumstances which had tended to impede its being despatched by the Resolution, till, just on the eve of its being sent away, Mr Larkins advised Mr Hastings to open it, in order to suffer him to make an affidavit that it was written on the 22nd of May; and to let the affidavit accompany it. Mr Larkins accordingly took an affidavit before Mr Justice Hyde, that the letter had been written by him on the 22nd of May, from rough drafts, furnished by Mr Hastings. This was a proof that Mr Hastings thought the letter of the most serious importance to himself: and that it was extremely material for him to establish the fact, that it had not been written on the pressure of the suspicion, but that the mean imputation to which the delay exposed him, from the occasion which the late parliamentary inquiries had furnished, was a matter to be regarded by him as singularly unfortunate. Undoubtedly, the run of much ill-luck had gone against him; and so unpromising were appearances in his favour, that it did not require any great share of incredulity to suspect that the letter was written, not before, but after he had heard of certain changes in the politics of this country, which might make him at length adopt a new opinion with respect to the best artifice for his own security; and conceive that a voluntary confession would prove one of the least fallible preservations from detection. The conduct of Mr Larkins, most certainly, was suspicious; and Mr Sheridan said, he trusted that no person would do him the injustice to conceive that he harboured cruel, and, of course, unworthy notions against mankind, when he observed that he saw the workings of gratitude so powerful in the hearts of individuals, as to eradicate every other feeling of duty. Mr Larkins had taken the most extraordinary pains to acquit his friend and patron, Mr Hastings. How well his efforts succeeded, the committee must determine. Mr Sheridan now remarked, that he should beg leave to enter upon a short investigation of the second money transaction, which Mr Hastings had represented as having some affinity with the former anecdote; and this was a demand upon the Council for money of his own, described as having been expended in the Company's service, to the amount of £34,500, for which he had desired to have three bonds; and here, it seemed necessary to refer to the defence of Mr Hastings respecting the circumstances of this transaction. In that defence, the Governor-general stated, that, being in the year 1783 in actual want of a sum of money for his private expenses, owing to the Company's not having at the time sufficient cash in their treasury to pay his salary, he borrowed three lacks of rupees from Rajah Nobkissen, an inhabitant of Calcutta, whom he desired to call upon him with a bond properly filled up; that Nobkissen did call; but, when Mr Hastings was going to execute it, Nobkissen entreated that he would rather accept the money than

execute the bond. In short, that he neither accepted the offer, nor refused it; but kept the rajah, during the space of several months, plunged into a state of the most tormenting anxiety. And now it might seem reasonable to imagine, that, at last, the matter dropped;—quite the contrary; Mr Hastings took the money, but neither gave the bond, nor was mean enough to think of returning the money; his pride forbade it; it was a fresh proof of the dread which the natives entertained of the Governor's pledge of faith. 'Take my money, and welcome,' said Nobkissen; 'but place me not within the peril of your promise; pledge not your faith to me! I know too well the consequences; I have heard of the treaty of Chunar;* I have heard of the usage of Fyzoolah Khan! † I have heard of other *shameful* circumstances which followed the *most solemn* engagements of the Governor-general of India!'

"Thus did Mr Hastings fill the breast of this unfortunate man with painful apprehensions, lest when he returned home he should find a bond thrust, perhaps, underneath his door at midnight. or by some unworthy stratagem placed upon his table. He knew too well, that all who had been honoured with his favour became irrecoverably ruined. His various guarantees, his treaties, and his sacred compacts, with every lamentable consequence, were present to his afflicted imagination. The rapacity of Mr Hastings he could tolerate; but he shrunk with horror from his protestations and his pledge of faith; a most unanswerable proof, that of all the monied men plundered by the Governor-general, Nobkissen entertained the truest notions of his character. In mercy, however, Mr Hastings came away from Calcutta without acting so cruelly as to send Nobkissen the bond; or so pitifully, as to repay the money; and, upon this occasion, it ought to be recollected, that Nobkissen was notoriously the most avaricious *black man* in Bengal: but, in the description of this insatiable thirst for money, it was not meant to draw an invidious comparison between the rajah and a disinterested European! He would not insist on the unprecedented charge of contingent expenses for a period of more than twelve years; nor on the particulars of this charge, which was principally for translating the Mahomedan laws, which he had destroyed, and other services of a nature equally useless. In that famous letter which, in his progress to Lucknow, he wrote to the Directors, he had the assurance to request that this sum might be allotted to his use, that he might not be doomed to poverty and obscurity, after a life spent in the accumulation of

* See p. 107.

† The Nabob of Ferruckabad, and one of the Rohilla chieftains, from whom Mr Hastings withdrew the British protection in consequence of a bribe of £100,000 from the Vizier of Oude, notwithstanding a treaty concluded by him with the Vizier Sujah Dowlah, and guaranteed by the English Government, by which he was invested with the Jaghire of Rampore and some other districts in Rohilcund, in return for which he was bound to keep up a certain military force in aid of the British Government. The impeachment of Mr Hastings for his conduct towards Fyzoolah Khan had been voted by a majority of 96 to 37.

crores for their advantage. But he had gone further; he had taken it upon himself to place this sum to his credit without the consent of the Company; thus *paying, contrary to law*, a debt which he had contracted *against authority!* This proceeding could not be justified by Mr Hastings, even on the principles which he had himself laid down in his construction of the Regulating Act: for here he must acknowledge that he had taken money *privately*, which he did not apply to the use of the Company, but to his *own;* as, whether he seized it in the first instance, or paid it to himself afterwards without authority, it was exactly the same. Hitherto nothing arose, excepting *mystery* and *obscurity* in the transactions, and in the defence made by the Governor-general; but if the committee were disposed to think (as he conceived they might be inclined) that no circumstances could exceed those to which he adverted, they were mistaken—for all was simplicity and plain dealing itself, when compared with what followed!

"Mr Sheridan now remarked, that he should next offer to the consideration of the committee a *manœuvre* (of which the particulars were not included in the charges) for the humane purpose of squeezing ten lacks of rupees from the nabob vizier, at Chunar.* The circumstances of this transaction had been too recently discussed to render much additional information necessary. This generous act was to assume the curious form of the refusal of an offer which the vizier was supposed to have made! Mr Middleton, the resident appointed by Mr Hastings—Mr Middleton, who had gone such lengths with him before, on a sudden became conscientious; and, like a tick with a *plethora* of blood, was satiated with plunder:—quite gorged, and torpid! Even he wrote to Mr Hastings, that he could not think of accepting this offer (which, however, the nabob had not at any time made), and Major Palmer was actually sent to *persuade him not keep the resolution to which he had come*, of presenting Mr Hastings with another £100,000—thus, by a kind of ingenuity, by a perversion unknown in this dull climate, conveying a *demand for money* under the form of *declining to accept it!* Concerning this circumstance, it appeared reasonable to remark, that when Major Palmer and Major Davy called upon the nabob for the money, the latter declared that he had never before heard that so extraordinary a demand was in contemplation! And how deeply must the merciful feelings of the committee become wounded, should they advert to the contents of a letter from this unfortunate and persecuted prince to Mr Hastings, in which, painting in the strongest colours his extreme distress, he complains bitterly of the exaction; yet he says, '*Being remediless*, I felt myself obliged to comply with what was required;' and then he concludes with this artless and affecting observation: 'Blessed as I am with so compassionate a friend as your highness, how does it happen that I am reduced to such a state of miserable distress?' On this occasion, Mr Sheridan said, that he must beg leave to enforce strongly upon the attention of the committee, that the reason advanced to justify the *seizure* (for it was far

* On the occasion of the plunder of the Begums, see page 106.

from meriting a milder term) of the £100,000,—the time when it was paid,—the manner in which it was paid,—and the persons to whom it was paid, had been all brought into full view; and unanswerably stigmatised as the falsest statements by the Governor-general. He had written word to the Directors, that the exigency of his affairs,—the want of cash to pay the army, and other things pressing, had caused him to accept the present of ten lacks of rupees, at the moment when he knew that the nabob vizier's affairs were in a state of the extremest indigence. Upon that ground he had vindicated the taking of the £100,000; but it came out afterwards, in the most positive declaration, that he had not the sum in cash, but in bills on Gopal Das, not payable until the expiration of some succeeding months. If that was true, his first ground of justification failed him; for the immediate wants of the army could acquire no relief from bills on Gopal Das, which had still several months to run. In the list of the persons to whom the money had been paid, the name of Mrs Hastings was inserted. He should have felt (Mr Sheridan added) great uneasiness at taking the liberty to introduce a lady's name in such a business, if it had not been for her complete exculpation; but the fact stood thus: The entry of Mrs Hastings's name, and those of the other persons, as the receivers of the sum, was a fallacy; and it was equally a fallacy that the ten lacks were paid by bills on Gopal Das; because that man was at the time detained by Cheit Sing; and let the committee ask themselves, if the Governor-general would not have more credit with Gopal Das than this miserable, moneyless, and ruined prince? Great part of the sum given was paid in rupees; and it was clearly a portion of the plunder of the unfortunate princesses, the mother and grandmother of Asoph ul Dowlah. As to the nabob, his distracted supplications were of no avail; and his treasury was swept, without the least attention to his prayer, that his rapacious pillager would leave him at least as much as might prove sufficient for the ordinary charges of his household.

"Mr Sheridan next stated the application of the Rajah of Berar, to the Governor-general and Council, for a sum of money to relieve his affairs, by paying his army; the whole amount of which sum was computed at sixteen lacks of rupees. This application was rejected as inconvenient to be complied with; but afterwards the Governor-general took the whole responsibility of the measure upon himself, and lent the Rajah of Berar three lacks.

"Mr Sheridan now mentioned the complaint* laid before the council board

* There were several charges brought against Mr Hastings by Nuncomar, and among the rest, that of his having committed the young Nabob of Bengal to the guardianship of Munny Begum in consideration of a bribe; but, in order to judge fairly of the truth and weight of the accusations, and to understand the allusions made hereafter by Mr Sheridan, it is necessary to give a slight sketch of the history of the accuser. The Maharajah Nuncomar was a Hindoo Brahmin, and possessed all the talent and deceit characteristic of the Bengalees. During the government of Lord Clive, he had been a competitor with a Persian Mussulman, of the name of Mohammed Reza Khan (a man of integrity according to the Indian standard of morality), for an office which, at that time, the Company were in the habit of entrusting to a great native

by the Rajah Nuncomar, and the £15,000 taken from Munny Begum, to whom was entrusted the sole collection of the revenues. The Directors had instructed him to appoint a minister (a guardian) to superintend Moharek ul Dowlah, the young Nabob of Bengal, and to manage his affairs. The person* whom he chose for this employment was the step-mother of the Nabob, and widow of the deceased Nabob—Meer Jaffier, an ignorant woman, drawn originally from the lowest class of life, and by Mr Hastings from the

minister, and which related to the internal administration of Bengal. Lord Clive, knowing the infamous character of Nuncomar, who had been engaged and detected in conspiracies against the English, decided in favour of Mohammed Reza Khan, although in opposition to the urgent solicitation of the Nabob of Bengal, over whom Nuncomar had acquired great influence. On Warren Hastings becoming Governor, Mohammed Reza Khan had been seven years in office, and the infant son of Meer Jaffier was nabob, under the guardianship of the minister. In consequence of the revenues of Bengal being considered to have decreased through the mismanagement of the minister, which idea was encouraged by Nuncomar to his utmost power, Warren Hastings was ordered by the Directors to remove Mohammed Reza Khan from his office. Soon after his removal, a change was made in the mode of administration; the office held by Mohammed Reza Khan was transferred to the servants of the Company, and the Nabob was no longer allowed to have any visible share in the government, but was to receive, in lieu, an annual allowance, and his person was confided to the care of Munny Begum, one of the ladies of his father's harem. Mohammed Reza Khan, after long delay, was tried for his supposed offences, and acquitted, to the great disappointment of Nuncomar, who was prominent in the prosecution. On the new government of India being formed in 1773, and the arrival of the Council in India, a quarrel immediately ensued between Warren Hastings and the majority of the Council, and, being in the minority on all questions, he was looked on as a fallen man, and consequently deserted by all the sycophants who till then had courted his favour. Nuncomar, who had always been the secret enemy of Hastings, seizing this favourable opportunity, came forward personally before the Council, and formally accused him of having put up offices for sale, and of having received bribes for his connivance at the escape of offenders; in particular, of having acquitted Mohammed Reza Khan in consideration of a large sum of money, and of having committed the young Nabob to the care of Munny Begum for a like cause. The Council, in spite of the protest of Hastings against their proceedings, decided against the Governor-general, and declared the charge made out. So far was Nuncomar triumphant; but Hastings, thus driven to extremities, and finding that either he or Nuncomar must fall, succeeded in crushing his rival in the following unexpected manner:—The Supreme court of Bengal, as established by Act of Parliament, had a jurisdiction entirely free from the control of the Council, and was presided over by Sir Elijah Impey, the friend of Hastings. The power of this court was now exercised for the destruction of Nuncomar. He was suddenly arrested on a charge of forging a bond six years before (an offence which in India was hardly considered criminal); bail to any amount was refused, although its acceptance was demanded by the Council: he was with all speed tried before Sir Elijah Impey and an English jury, found guilty of the offence, and immediately ordered for execution, which sentence was most unrelentingly carried out in spite of all remonstrance. Hastings thus freed himself of a most dangerous enemy: the position in which he was himself placed, may be considered some palliation for his share in the transaction, but the conduct of Sir Elijah Impey can never be justified.

* Munny Begum.

recesses of the Zenana, to instruct her princely pupil in all the arts of future government! This curious appointment would certainly prove more the subject of indignation than surprise to the committee, when they should discover, from unquestionable authority, that it was assigned for the valuable consideration of £15,000 to himself, and the same sum to Mr Middleton. Mr Hastings's transaction with Cawn Jewan Khan was the next object of Mr Sheridan's animadversion. This man was appointed Phousdar of Houghly, with an income of 72,000 sicca rupees a year—of which Mr Hastings was charged with taking half, besides 4000 allotted to his black broker; and the accusation was made, as well as that proffered by Nuncomar, in full Council. The Council proposed to inquire into the truth of it, and required Cawn Jewan Khan to answer to the facts upon oath; to which procedure he and Mr Hastings peremptorily objected; and that Cawn Jewan Khan could not, by virtue of his religion, take an oath, was the weak excuse of Mr Hastings; but in the words used in the answer of Mr Hastings to the charge, he might retort the falsity upon him. Cawn Jewan Khan was, as a punishment for his contumacy, deprived of his employment; but on the death of Colonel Monson, which gave Mr Hastings, by virtue of his casting vote, a majority in the Council, he was reinstated at the motion of the Governor. He left it to the reflection of the committee, whether any circumstantial proof—and the case would admit of nothing further—could more clearly trace the guilt of Mr Hastings, or establish the certainty of private practices of a corrupt nature between him and the Phousdar? The whole was a studied maze of theft, bribery, and corruption; unparalleled even in the most ignominious annals of East India delinquency. With respect to the unfortunate Rajah Nuncomar, *he* was first indicted for a conspiracy; but that failing, he was tried on an English penal statute (which, although rendered by a stretch of power most dreadfully forcible in Bengal, did not reach even to Scotland!) he was convicted and hanged for a crime (forgery) which was not capital in his own country! Whatever were the circumstances of this judicial proceeding (which might be the subject of another inquiry), they could not fail of exciting apprehensions and terrors in the natives, which would put a stop to all further informations against the Governor. During this transaction, Mr Hastings—in direct contradiction to the opinions of General Clavering, Colonel Monson, and Mr Francis—repeatedly asserted, that it was repugnant to the customs, either of the Mussulmen or Hindoos, to take an oath; yet, on a later occasion, he justified himself in all his proceedings at Benares, by the affidavits of persons of the religion which he mentioned, taken before the *upright* judge* of the supreme court of Calcutta! It had been allowed, in the evidence given at the bar, that all India was in consternation at the event; and considered the death of Nuncomar as a punishment for having advanced charges against Mr Hastings. Who, after such an event, would dare step forward as his accuser? None would venture; and the Governor

* Sir Elijah Impey.

might, in future, pillage the natives as he thought proper, without any fear of being disturbed by their invocations for justice! But this justice, he hoped and trusted, would not be refused in a British Parliament; they owed it to their own dignity, to the support of the resolutions into which they had already entered, to the honour of the country, the prosperity of the government, and the rights of humanity! The present charge (he should beg leave to repeat) was not, perhaps, of that nature which came home most effectually to the feelings of men; it could not excite those sensations of commiseration or abhorrence which a ruined prince, a royal family reduced to want and wretchedness, the desolation of kingdoms, or the sacrilegious invasion of palaces, would certainly inspire! In conclusion, Mr Sheridan observed, that, although within this rank but infinitely too fruitful wilderness of iniquities—within this dismal and unhallowed labyrinth, it was most natural to cast an eye of indignation and concern over the wide and towering forests of enormities, all rising in the dusky magnificence of guilt; and to fix the dreadfully excited attention upon the huge trunks of revenge, rapine, tyranny, and oppression; yet it became not less necessary to trace out the poisonous weeds, the baleful brushwood, and all the little, creeping, deadly plants, which were, in quantity and extent, if possible, more noxious. The whole range of this far-spreading calamity was sown in the hot-bed of corruption; and had risen, by rapid and mature growth, into every species of illegal and atrocious violence! Upon this ground, most solemnly should he conjure the committee to look to the malignant source of every rooted evil; and not to continue satisfied with reprobating effects, whilst the great cause enjoyed the power of escaping from merited crimination, and the infliction of a just punishment. He now moved, 'That the committee, having considered the present article of charge of high crimes and misdemeanours against Warren Hastings, Esq., late Governor-general of Bengal, is of opinion, that there is ground for impeaching the said Warren Hastings, Esq., of high crimes and misdemeanours upon the matter of the said article.'"

The motion was carried by 165 votes to 54.

Speech delivered in Westminster Hall, in support of the impeachment of Warren Hastings, Esq., on the second charge, in respect of his conduct towards the Begums of Oude. Mr Adam, on April 15th, 1788, had opened the charge, and Mr Sheridan now summed up the evidence. His address occupied four days, and at the conclusion Mr Burke declared, "that no species of oratory, no kind of eloquence that had been heard in ancient or modern times; nothing which the acuteness of the bar, the dignity of the senate, or the morality of the pulpit, could furnish, was equal to what they had that day heard in Westminster hall; that no species of composition existed of which a complete and perfect specimen might not be culled out of this speech; which he was persuaded had left too strong an impression on the minds of that assembly to be easily obliterated."

On the first day, Tuesday, June 3rd, he dilated on the importance of the investigation, and on the policy as well as the justice of vindicating the character of Great Britain in India; but yet disclaimed any desire that Mr Hastings should be condemned unless his guilt were legally and indisputably established by proof. He commented severely on the disavowal by Mr Hastings of the admission and statement he had made in his defence before the House of Commons; and then proceeded with great force to condemn his cruel conduct towards the Begum Princesses, and his total disregard to the prejudices of the natives of India, in violating the sanctity of the female apartments; and, after exposing the infamy of the treaty of Chunar, concluded in a strain of bitter irony, in denouncing the conduct of Sir Elijah Impey. The court having adjourned to Friday, June 6th, on that day,

Mr Sheridan resumed his speech, by expressing his satisfaction that, in the interval of the adjournment, the remaining part of the evidence, &c., had been printed and laid before their lordships; as it was the wish of the managers that every document should be before the court at the time, for the purpose of determining with more accuracy whether they had or had not borne out the charges which they presented.

Recurring then to the affidavits* taken by Sir Elijah Impey, at Lucknow, "they formed," he observed, "a material article in the defence of Mr Hastings; and on the decision of their lordships respecting the weight of the allegations which they contained, a great part of this question would finally depend. With respect to one part of the charge made on the Begums—their having shown a uniform spirit of hostility to the British government—it had not only failed, but it was absolutely abandoned by the counsel for the prisoner, as not being supported by a tittle of evidence. In deciding on the other parts of this charge—their having committed an overt act of rebellion—their having inflamed the Jaghirdars,† and excited the discontents in Oude—their lordships were to consider the situation in which Mr Hastings stood at the time these charges were made. Having failed in his attempt at Benares, his mind was entirely directed to the treasures of the Begums. He knew that such was the situation into which he had plunged the affairs of the Company, that he could not address his *venal* masters unless some treasure was found. He had, therefore, stood forward as an accuser where he was also to preside as a judge; and with much caution should that judge be heard, who has apparently a profit on the conviction, and an interest in the condemnation of the party to be tried. He would not from this infer, however, that the charge was groundless; but he would argue, that, until fully proved, it should not meet with implicit credit. It was obvious, also, that the attempt said to have been made by the Begums, to dethrone the Nabob and extirpate the English, was in the highest degree improbable; but he would not infer from thence that it was impossible;

* In support of the charge of conspiracy by the Begums, to dethrone the Nabob and expel the English.

† Or native leaseholders.

there is in human nature a perverse propensity to evil, which had sometimes caused the perpetration of bad acts without any obvious gratification resulting to the perpetrator. All he should claim, therefore, was, that the accusations brought by Mr Hastings against the Begums should undergo a candid examination, and that probable evidence, at least, should be brought to the support of charges in themselves improbable.

"Mr Hastings, in his defence, had complained that his prosecutor had attempted to blacken these affidavits as rash, irregular, and irrelevant, when they had been authenticated by the presence of Sir Elijah Impey, and, as he also observed, being taken in an inquiry directed solely to establish the guilt of Cheit Sing, they were merely an accessary evidence in the present case, and were therefore less liable to suspicion. The reasoning, in this last instance, Mr Sheridan observed, would undoubtedly be good; but the assertion, that the inquiries were exclusively directed to the crimination of Cheit Sing, had been proved an absolute falsehood, as they were really intended to justify what was afterwards to be done. With respect to the epithets bestowed on those affidavits by his honourable friend, the truth would best appear from a review of their contents. Mr Sheridan then proceeded to remark on the affidavits severally, as far as they related to charges against the Begums. Those of the Jemmadars, or native subaltern officers, contained nothing, it appeared, but vague rumour and improbable surmise.

"One deponent, who was a black officer in one of our regiments of sepoys, stated, that having a considerable number of people as hostages in a fort where he commanded, and who had been sent thither by Colonel Hannay, the country people got round the fort, and demanded that they should be delivered up; but, instead of complying with their request, he put almost twenty of them to death: he afterwards threw down some of the battlements of the fort, and killed four more of the hostages; and, on another day, the heads of eighteen more were struck off, and among them the head of a great rajah of the country, by order of Colonel Hannay. The people around were enraged at this execution, and crowded about the fort; some of them were heard to say, that the Begums had offered a reward of one thousand rupees for the head of every European, one hundred for the head of every sepoy officer, and ten for the head of a common sepoy. But it appeared afterwards, pretty clearly, that no such rewards had, in reality, been offered; for when Captain Gordon's detachment took the field, the people who surrounded him told him, that if he would deliver up his arms and his baggage, they would let him and his men continue their route unmolested: so little were they disposed to enrich themselves by the slaughter of the British forces, that when Captain Gordon's detachment was reduced, by desertion, to ten men, and when the slaughter or capture of them would have been of course a work of very little difficulty, the country people remained satisfied with the dispersion of the detachment, and then returned to their homes, without attempting to attack the poor remains of that detachment—the ten men who continued with Captain Gordon. That gentle-

man, in his affidavit, *supposed* the Begums to have encouraged the country people to rise, because, when he arrived at the bank of the river Saunda Nutta, on the opposite bank of which stands the town of Saunda, the phousdar, or governor, who commanded there for the Bow Begum, in whose jaghire the town lay, did not *instantly* send boats to carry him and his men over the river; and because the phousdar pointed two or three guns across the river. Now, admitting both these facts to be true, they could not affect the Begums, for it was the duty of the phousdar to be on his guard, and not to let troops into his fort until he knew for what purpose they appeared before it. In the next place, there was nothing in the affidavit which indicated that the guns were pointed against Captain Gordon and his men; on the contrary, it was possible that these guns had made that gentleman's pursuers disperse; for it was rather remarkable, that they should pursue him whilst he was in force, and should give over the pursuit when, by the desertion of his soldiers, his detachment was reduced to ten men. However, whatever might have been the cause of their dispersion, Captain Gordon at length got across the river, and found himself in a place of safety as soon as he got into a town that was under the authority of the Begums, who caused him to be sent afterwards, under a protecting guard, to Colonel Hannay. This circumstance was suppressed in the affidavit made afterwards by Captain Gordon: for what purpose it was not for him to judge.

"Hyder Beg Khan, the minister of the Nabob, though swearing both to rumour and to fact, could mention no particulars of an insurrection which was to have dethroned his Sovereign. Nor was the evidence of Colonel Hannay, and the other English officers, more conclusive: loud suspicions appeared to have been propagated at a time of general disturbance, and when the flames of war were raging in the neighbouring province of Benares. Mr Middleton,* though swearing after he had received his final orders from Mr Hastings respecting the seizure of the treasures, could only say, that he believed the Begums had given countenance to the rebels, and, he had heard, some aid. The whole of the depositions, Mr Sheridan observed, were so futile, that were they defended in an inferior court of justice; he was convinced he should be forbidden to reply, and told he was combating with that which was nothing!

"With respect to the first part of the charge, the rebellion of the Begums, he could find no trace of any such transaction.

"The best antiquarian in our society," said Mr Sheridan, "would be, after all, never the wiser! Let him look where he would, where can he find any vestige of battle, or a single blow? In this rebellion, there is no soldier, neither horse nor foot; not a man is known fighting; no office-order survives, not an express is to be seen. This great rebellion, as notorious as our '45, passed away—unnatural, but not raging—beginning in nothing, and ending, no doubt, just as it began!

* The resident agent at the court of the Nabob.

"If rebellion, my lords, can thus engender unseen, it is time for us to look about. What, hitherto, has been dramatic, may become historical;—Knightsbridge may at this moment be invested; and all that is left us, nothing but the forlorn hope of being dealt with according to the statute, by the sound of the Riot act, and the sight, if it can be, of another Elijah!

"The counsel had thought proper to dwell for a time on the Nabob's going to Fyzabad,* on his return from Chunar, attended by a guard of 2,000 men. Mr Middleton being asked, whether these men were well-appointed, though on another occasion he had declared himself no military man, caught in the instant a gleam of martial memory, and answered in the affirmative. The contrary, however, was proved by the evidence of Captain Edwards, who attended the Nabob as his aide-de-camp, and also that those troops were actually mutinous for their pay, who were then taken to stop the progress of disaffection! Yet he would agree to all that the counsel required;—he would suffer the whole 2,000 men to enter full trot into the city of Fyzabad, 'whilst Middleton stood by out of his wits, with a gleam of martial memory; and whilst Sir Elijah, like a man going to learn fashions or freedom in England, takes a sportive tour, as smooth and well-beaten as Old Brentford;' for Captain Edwards had fully proved that it was merely the usual guard of the Nabob. It would, therefore, have been disrespectful to have gone with less attendance; he could have no motive for going *incog.*, unless he might have intended to make himself a perfect match for the insurrection, which was also *incog.*, or thought that a rebellion without an army would be most properly subdued by a prince without a guard.

"Another supposed proof of the disaffection of the Begums was brought, by alleging that 1,000 Nudjies had been raised at Fyzabad, and sent to the assistance of Cheit Sing;† and this for no other reason than a detachment of the same number being in the list of the forces of the rajah! This single circumstance was taken as full and complete evidence of the identity of those troops. It was no matter that the officer second in command with Cheit Sing had sworn that the detachment came from Lucknow, and not from Fyzabad; this Mr Hastings would have to be a trifling mistake of one capital for another! The same officer, however, had also deposed, that the troops were of a different description; those of the Begum being swordsmen, and those in the service of the rajah matchlock-men. The inference to be made, therefore, undoubtedly was, that the detachment did actually come from Lucknow; not sent, perhaps, by the Nabob, but by some of the Jaghirdars, his favourites, who had abundant power for that purpose, and whose aversion to the English had always been avowed. The name of Sadib Ally, his half-brother, had been mentioned as being highly criminal in these transactions; but to the question, 'Why was he not punished?' Sir Elijah Impey had given the best answer at the bar, by informing their lordships that Sadib

* The place of residence of the Begums.

† As to the proceedings against Cheit Sing, see p. 106.

Ally was miserably poor! He had, therefore, found protection in his poverty, and safety in his insolvency. Every common maxim of judging on such occasions was certain to be overturned by Mr Hastings. It was generally supposed that the needy were the most daring; and that necessity was the strongest stimulus to innovation; but the Governor-general, inverting this proposition, had laid it down as an axiom, that the actions of the poor were sufficiently punished by contempt; that the guilt of an offender should increase in a precise *ratio* with his wealth; and that, in fine, where there was no treasure, there could undoubtedly be no treason!"

Mr Sheridan next read the letter of the Begum* to Mr Hastings, complaining of the suspicions which had been so unjustly raised of her conduct; and referring to Captain Gordon, who could testify her innocence. He also read the letter of Captain Gordon to the Begum,† thanking her for her interference, and acknowledging that he owed his life to her bounty. "It had been asked, with an air of triumph, why Captain Gordon was not called to that bar? He had answered then, as now, that he would not call on a man

* The letter was as follows:—"The disturbances of Colonel Hannay and Mr Gordon were made a pretence for seizing my jaghire. The state of the matter is this:—When Colonel Hannay was, by Mr Hastings, ordered to march to Benares during the troubles of Cheit Sing, the Colonel, who had plundered the whole country, was incapable of proceeding, from the union of thousands of Zemindars, who had seized this favourable opportunity; they harassed Mr Gordon near Junivard, and the Zemindars of that place and Acherpore opposed his march from thence, till he arrived near Saunda. As the Saunda Nutta, from its overflowing, was difficult to cross without a boat, Mr Gordon sent to the fowzdar to supply him; he replied, the boats were all in the river, but would assist him, according to order, as soon as possible. Mr Gordon's situation would not admit of his waiting; he forded the Nutta upon his elephant, and was hospitably received and entertained by the fowzdar for six days. In the meantime, a letter was received by me from Colonel Hannay, desiring me to escort Mr Gordon to Fyzabad. As my friendship for the English was always sincere, I readily complied, and sent some companies of Nejeebs to escort Mr Gordon and all his effects to Fyzabad: where, having provided for his entertainment, I effected his junction with Colonel Hannay. The letters of thanks received from both these gentlemen, upon this occasion, are still in my possession; copies of which I gave in charge to Major Gilpin, to be delivered to Mr Middleton, that he might forward them to the Governor-general. To be brief, those who have loaded me with accusations, are now clearly convicted of falsehood. But is it not extraordinary, that, notwithstanding the justness of my cause, nobody relieves my misfortunes? My prayers have been constantly offered to heaven for your arrival; report has announced it, for which reason I have taken up the pen, and request you will not place implicit confidence in my accusers; but, weighing in the scale of justice their falsehoods and my representations, you will exert your influence in putting a period to the misfortunes with which I am overwhelmed."

† The letter was as follows:—"Begum Saib, of exalted dignity, generosity, &c., whom God preserve.

"Your gracious letter, in answer to the petition of your servant from Goondah, exalted me. From the contents, I became unspeakably impressed with the honour it conferred. May the Almighty protect that royal purity, and bestow happiness, increase of wealth, and prosperity.

"*The welfare of your servant is entirely owing to your favour and benevolence, &c., &c.*"

who, in his affidavit, had suppressed all mention of this important transaction. He trusted that, if ever he saw him at that bar, he should witness a contrite zeal to do away the effects of that silence, and behold a penitential tear for the part he had then taken. He hoped, however, for the honour of human nature, that Captain Gordon was then under a delusion, and that he was led on by Mr Middleton, who was well informed of the business, to act a part of which he did not know the consequences. Every feeling of humanity recoiled from the transaction taken in any other point of view. It was difficult to imagine that any man could say to a benefactor, 'The breath that I now draw, next to Heaven, I owe to you; my existence is an emanation from your bounty; I am indebted to you beyond all possibility of return, and, therefore, my *gratitude* shall be your *destruction*.'

"The original letters on this occasion, from Colonel Hannay and Captain Gordon to the Begum, had been transmitted by her, through Major Gilpin, to Mr Middleton, for the purpose of being shown to Mr Hastings; but the leaves were torn from Mr Middleton's letter-book in the place where they should have appeared. When examined on this subject, he said, that he had deposited Persian copies of those letters in the office at Lucknow, but that he did not bring translations with him to Calcutta, because he left Lucknow the very day after he had received the originals. In this evidence," Mr Sheridan said in express terms, "there appeared flat perjury!—enormity, if it was so, beyond all expectation, made manifest by that power, to whose nod all creatures must bend—to whom nothing, in the whole system of thought or action, is impossible—who can invigorate the arm of infancy with a giant's nerve—who can bring light out of darkness, and good out of evil—can rive the confines of hidden mischief, and drag forth each minister of guilt from amidst his deeds of darkness and disaster, reluctant, alas! and unrepenting, to exemplify, at least, if not atone, and to qualify any casual sufferings of innocence by the final doom of its oppressor—to prove there are the never-failing corrections of God, to make straight the obliquity of man. It could be proved, by comparing dates, that Middleton had received those letters at least a month before he left Lucknow. He departed from that city on the 17th of October; but must have received those letters before the 20th of the preceding month. He was, therefore, well aware of the purity of those in whose oppression he was engaged; he knew that their attachment was fully proved at the very time they were charged with disaffection; but, as their punishment was predetermined, he, in concert with his principal, found it necessary to suppress the testimonials of their innocence. The injured sufferers, with tears more powerful than argument, and with sighs more impressive than eloquence, supplicated their lordships' justice, and called for that retribution which should alight on the detested but unrepenting author of their wrongs.

"The benevolent interference of the Begum in favour of Captain Gordon had been assigned by Mr Hastings, in his defence, to her intelligence of the successes of the English at that period. That this allegation was founded

in manifest falsehood, could very easily be proved. The only success which the British forces at that time met with was that of Colonel Blair, on the 3rd of September, but where he himself acknowledged that another victory gained at such a loss would be equal to a defeat. The reports spread around the country at the time were of the most unfavourable cast—that Mr Hastings had been slain at Benares, and that the English were everywhere routed. These reports, it was to be remarked, were of infinitely more consequence to the present argument than the facts which really occurred; but if any doubt remained on the mind of any man, it was only necessary to recur to a never-failing evidence, in that of Mr Hastings against himself. In a letter to the Council, which was on record, Mr Hastings acknowledged that, from the 22nd of August to the 22nd of September, which included, of course, the time of Captain Gordon's liberation, he had been confined in a situation of the utmost hazard—that his safety, during that time, was extremely precarious—and that the affairs of the English were generally thought to be unfavourable in the extreme! In his defence, however, these admissions were totally forgotten. There was also an observable inconsistency in what was there alleged—that Colonel Hannay had written to the Begum in the style of supplication, because, in the desperate situation of affairs, he knew of no other which he could adopt; and yet, in the same sentence, it was averred that the Begum had procured the release of Captain Gordon, from her knowledge of the prosperous advances of our army! It appeared, therefore, beyond the possibility of a doubt, that those princesses had demonstrated the firmness of their attachment to the English—not in the moment of success, not from the impulse of fear, nor from the prospect of future protection; but at a time when the hoard of collected vengeance was about to burst over our heads—when the measure of European guilt in India appeared to be completely filled by the oppressions what had just then been exercised on the unfortunate Cheit Sing—and when offended Heaven seemed to interfere to change the meek disposition of the natives, to awaken their resentment, and to inspirit their revenge.

"The second of the remaining parts of the charge against the Begums was, their having inflamed the Jaghirdars. It was evident, however, even from the letters of Mr Middleton himself, that no such aid was wanted to awaken resentments which must unavoidably have arisen from the nature of the business. There were many powerful interests concerned—the jaghires which were depending were of a vast amount; and as their owners, by the resumption, would be reduced at once to poverty and distress, their own feelings were sufficient to produce every effect which had been described. It was idle, therefore, to ascribe to the Begums, without a shadow of proof, the inspiring of sentiments which must have existed without their interference. I shall not waste the time of the court," said Mr Sheridan, "on such a subject, but appeal to your lordships, individually, to determine whether, on a proposal being made to confiscate your several estates—and the magnitude of the objects are not very unequal—the interference of any two ladies in

this kingdom would be at all necessary to awaken your resentments and to rouse you to opposition.

"The discontents which prevailed in the province of Oude had been also, and with similar justice, attributed to these princesses, and formed the third and last article of charge against them. But the conduct of the officers residing in that province, the repeated complaints from the natives, and the acknowledged rapacity of Colonel Hannay, left no difficulty in tracing those discontents to the source whence they had originated. The Nabob himself was so well convinced of the tyranny of Colonel Hannay that, on a proposition coming from Mr Hastings to send him back into the province, the Nabob swore by Mahomet, 'that, if the colonel was sent back, he would quit the province, and come to reside with Mr Hastings.' The Governor-general some time after sent an apology for the suggestion; but it was then too late—Colonel Hannay was dead, and the province was desolate.

"Should a stranger survey the land formerly Sujah Dowlah's, and seek the cause of the calamity—should he ask what monstrous madness had ravaged thus, with wide-spread war?—what desolating foreign foe—what disputed succession—what religious zeal—what fabled monster has stalked abroad, and, with malice and mortal enmity to man, has withered with the gripe of death every growth of nature and humanity, all the means of delight, and each original, simple principle of bare existence? The answer will be—if any answer dare be given—'No, alas! not one of these things—no desolating foreign foe—no disputed succession—no religious super-serviceable zeal! This damp of death is the mere effusion of British amity: we sink under the pressure of their support—we writhe under the gripe of their pestiferous alliance!'

"Thus they suffered, in barren anguish and ineffectual bewailings. And 'O audacious fallacy!' says the defence of Mr Hastings, 'what cause was there for any incidental ills but their own resistance?'

"The cause was nature in the first-born principles of man. It grew with his growth; it strengthened with his strength! It taught him to understand—it enabled him to feel; for, where there is human shape, can there be a penury of human feeling? Where there is injury, will there not be resentment? Is not despair to be followed by courage? The God of battles pervades and penetrates the inmost spirit of man, and, rousing him to shake off the burthen that is grievous, and the yoke that is galling, will reveal the law written in his heart, and the duties and privileges of his nature—the grand universal compact of man with man! That power is delegated in trust, for the good of all who obey it—that the rights of men must arm against man's oppression; for that indifference were treason to human state, and patience nothing less than blasphemy against the laws which govern the world.

"That this representation was not exaggerated would appear from the description of Major Naylor, who had succeeded Colonel Hannay, and who had previously saved him from the vengeance which the assembled ryots, or

husbandmen, were about to take on their oppressors. The progress of extortion, it appeared, had not been uniform in that province; it had absolutely increased as its resources failed; and, as the labour of exaction became more difficult, the price of that increased labour had been charged as an additional tax on the wretched inhabitants! At length, even in their meek bosoms, where injury never before begot resentment, nor despair aroused to courage, increased oppression had its due effect. They assembled round their oppressor, and had nearly made him their sacrifice. So deeply were they impressed with the sense of their wrongs, that they would not even accept of life from those who had rescued Colonel Hannay. They presented themselves to the swords of the soldiery; and, as they lay bleeding on the banks of their sacred stream,* they comforted themselves with the ghastly hope that their blood would not descend into the soil, but that it would ascend to the view of the God of nature, and there claim a retribution for their wrongs! Of a people thus injured, and thus feeling, it was an audacious fallacy to attribute the conduct to any external impulse. That God, who gave them the form of man, implanted also the wish to vindicate the rights of man. Though simple in their manners, they were not so uninformed as not to know that power is, in every state, a trust reposed for the general good; and that, the trust being once abused, it should, of course, be instantly resented.

"The innocence of the Begums," Mr Sheridan continued, "being thus most indubitably and incontrovertibly proved, it could not be allowed that he argued fairly if he did not immediately infer, from that proof, the guilt of Mr Hastings. He would go so far as to admit that Mr Hastings might have been deluded by his accomplices, and have been persuaded into a conviction of a criminality which did not exist. If that were proved, he would readily agree to acquit the prisoner of the present charge. But if, on the contrary, there appeared in his subsequent conduct such a concealment as denoted the fullest consciousness of guilt—if all his narrations of the business were marked with inconsistency and contradiction—that mind must be inaccessible to conviction which could entertain a doubt of his criminality. From the month of September, in which the seizure of the treasures took place, until the January following, had Mr Hastings wholly concealed the transaction from the Council at Calcutta! If anything could be more singular than this concealment, it was the reasons by which it was afterwards attempted to be justified. Mr Hastings first pleaded a want of leisure. He was writing to the Council at a time when he complained of an absolute inaction; he found time to narrate some pretty eastern tales respecting the attachment of the sepoys to their cannon, and their dressing them with flowers on particular occasions; but of a rebellion which convulsed an empire—of the seizure of the treasures to such an amount—he could not find leisure to say one syllable, until he had secured an excuse for his conduct in the possession of the

* The Ganges, which has always been regarded, by the natives of India, with great veneration.

money. The second excuse was, that all communication was cut off with Fyzabad; and this was alleged at a time when letters were passing daily between him and Mr Middleton, and when Sir Elijah Impey had pronounced the road to be as free from interruption as that between London and Brentford. The third excuse was, that Mr Middleton had taken with him, on his departure from Chunar, all the original papers which it was necessary for Mr Hastings to consult. That the original papers had not been removed was evident, however, from Mr Hastings sending a copy of the treaty of Chunar to Mr Middleton, on the fourth day after the resident's departure; though it appeared that it was re-inclosed at a proper time to Mr Hastings, to be shown to the Council. A copy of the same had been shown to the oriental Grotius, Sir Elijah Impey, which he confessed his having read at the time when he declared his ignorance of the guarantee* to the Princesses of Oude! Looking to the absurdity of reasons such as these, assigned in defence of a silence so criminal, Mr Sheridan declared that he would lay aside every other argument—that he would not dwell on any other topic of guilt, if the counsel for Mr Hastings would but join issue on this point, and prove, to the satisfaction of the court, that any of these excuses were in the smallest degree sufficient for the purpose for which they were assigned.

"Amidst the other artifices of concealment, was a letter from Colonel Hannay, dated October 17, 1781, which Mr Sheridan indisputably proved could not have been written at the time, but was fabricated at a subsequent period, as it contained a mention of facts which could by no possibility have been known to Colonel Hannay at the time when it was pretended to have been written. Whatever else could be done for the purpose of concealment, was done in that mixture of canting and mystery, of rhapsody and enigma—Mr Hastings's narrative of his journey to Benares. He there set out with a solemn appeal to heaven for the truth of his averments, and a declaration of the same purport to Mr Wheeler. The faith, however, thus pledged, was broken both to God and man; for it was already in evidence, that no single transaction had occurred as it was there stated!

"The question would naturally occur to every person who had attended to these proceedings, 'Why Mr Hastings had used all these efforts to veil the whole of this business in mystery?' It was not strictly incumbent on him to answer the question, yet he would reply, that Mr Hastings had obviously a bloody reason for the concealment. He had looked to the natural effect of strong injuries on the human mind; as, in the case of Cheit Sing, he thought that oppression must beget resistance; and the efforts which might be made by the Begums in their own defence, though really the effect, he was determined to represent as the cause, of his proceedings. Even when disappointed in those aims by the natural meekness and submission of those with whom he

* By a treaty signed by Mr Middleton, as the English resident agent at Oude, with the superior Begum, in October, 1778, and afterwards approved by Mr Hastings, the jaghire, which was allotted for the support of the women in the Khord Mahal, had been secured to the Begums.

was to act, he could not abandon the idea; and, accordingly, in his letter to the Directors, of January 5, 1782, had represented the subsequent disturbances in Oude as the positive cause of the violent measures which he had adopted, two months before those disturbances had existence! He there congratulates his masters on the seizure of those treasures which, by the law of Mahomet, he assures them were the property of Asoph ul Dowlah. Thus the perturbed spirit of the Mahometan law, according to Mr Hastings's idea, still hovered round those treasures, and envied them to every possessor, until it at length saw them safely lodged within the sanctuary of the British treasury! In the same spirit of piety, Mr Hastings had assured the House of Commons, that the inhabitants of Asia believed that some unseen power interfered, and conducted all his pursuits to their destined end. That Providence, however, which thus conducted the efforts of Mr Hastings, was not the Providence to which others profess themselves indebted—which interferes in the cause of virtue, and insensibly leads guilt towards its punishment: it was not, in fine, that Providence,

"'Whose works are goodness, and whose ways are right.'

The unseen power which protected Mr Hastings, operated by leading others into criminality, which, as far as it respected the Governor-general, was highly fortunate in its effects. If the Rajah Nuncomar* brings a charge against Mr Hastings, Providence so orders it, that the Rajah has committed a forgery some years before; which, with some friendly assistance, proves a sufficient reason to remove out of the way so troublesome an acquaintance. If the Company's affairs are deranged through the want of money, Providence ordains it so that the Begums, though unconsciously, fall into a rebellion, and gives Mr Hastings an opportunity of seizing on their treasures! Thus, the successes of Mr Hastings depended, not on any positive merit in himself; it was to the inspired felonies, the heaven-born crimes, and the providential treasons of others, that he was indebted for each success, and for the whole tenor of his prosperity!

"It must undoubtedly bear a strange appearance, that a man of reputed ability should, even when acting wrongly, have had recourse to so many bungling artifices, and spread so thin a veil over his deceptions. But those who testified any surprise at this circumstance, must have attended but little to the demeanour of Mr Hastings. Through the whole course of his conduct he seemed to have adhered to one general rule, to keep as clear as possible of the fact which he was to relate! Observing this maxim, his only study was to lay a foundation as fanciful and as ornamental as possible; then, by a superadded mass of fallacies, the superstructure was soon complete, though by some radical defect it never failed to tumble on his own head. Rising from those ruins, however, he was soon found rearing a similar edifice, but with a like effect. Delighting in difficulties, he disdained the plain and

* See note, page 135.

secure foundation of truth; he loved, on the contrary, to build on a precipice, and encamp on a mine. Inured to falls, he felt not the danger; and frequent defeats had given him a hardihood, without impressing a sense of the disgrace.

"It had been a maxim once as much admitted in the practice of common life, as in the school of philosophy, that where Heaven was inclined to destroy the vice, it began by debasing the intellect.* This idea was carried still further by the right honourable gentleman who opened the prosecution; who declared, that prudence and vice were things absolutely incompatible; that the vicious man, being deprived of his best energies, and curtailed in his proportion of understanding, was left with such a short-sighted degree of penetration as could not come under the denomination of prudence. This sentiment did honour to the name of his right honourable friend, to whom," said Mr Sheridan, "I look up with homage; whose genius is commensurate with his philanthropy—whose memory will stretch itself beyond the fleeting objects of any little partial shuffling, through the whole wide range of human knowledge, and honourable aspiration after human good; as large as the system which forms life—as large as those objects that adorn. It is a noble and a lovely sentiment, worthy the mind of him who uttered it; worthy that proud disdain, that generous scorn of the means and instruments of vice, which virtue and genius must ever feel. But I should doubt whether we can read the history of a Philip of Macedon, a Cæsar, or a Cromwell, without confessing that there have been evil purposes baneful to the peace and rights of men, conducted, if I may not say with prudence or with wisdom, yet with awful craft, and with most successful and commanding subtlety. If, however, I might make a distinction, I should say, that it is the proud attempt to mix a variety of lordly crimes, that unsettles the prudence of the mind, and breeds this distraction of the brain; one master-passion, domineering in the breast, may win the faculties of the understanding to advance its purpose, and direct to that object everything which thought or human knowledge can effect; but, to succeed, it must maintain a solitary despotism in the mind; each rival profligacy must stand aloof, or wait in abject vassalage on its throne; for the power that has not forbidden the entrance of evil passions into man's mind, has at least forbidden their union: if they meet, they defeat their object, and their conquest, or their attempt at it, is tumult. Turn to the virtues—how different the decree! Formed to connect, to blend, to associate, and to co-operate; bearing the same course, with kindred energies and harmonious sympathy; each perfect in its own lovely sphere, each moving in its wider or more contracted orbit, with different but concentring powers, guided by the same influence of reason, and endeavouring at the same blessed end—the happiness of the individual, the harmony of the species, and the glory of the Creator! In the vices, on the other hand, it is the discord that ensures the defeat; each clamours to be

* Quem Deus vult perdere, priùs dementat.

heard in its own barbarous language; each claims the exclusive cunning of the brain; each thwarts and reproaches the other; and even while their fell rage assails with common hate the peace and virtue of the world, the civil war among their own tumultuous legions defeats the purpose of the foul conspiracy. These are the furies of the mind, my lords, that unsettle the understanding; these are the furies that destroy the virtue of prudence; while the distracted brain, and shivered intellect, proclaim the tumult that is within; and bear their testimonies, from the mouth of God himself, to the foul condition of the heart."

Reverting again to the subject of the claims made on the Princesses of Oude, Mr Sheridan said: "Whether those were first made by the Nabob, or suggested to him by his sovereign, Mr Hastings—though the counsel had laboured much to prove the former—appeared to him to carry very little difference. If the seizure was made as a confiscation and punishment for supposed guilt, then, if ever there was a crime which ought to pass 'unwhipped of justice,' it was that where a son must necessarily be made the instrument of an infliction, by which he broke his covenant of existence, and violated the condition by which he held his rank in society. If, on the contrary, it was meant as a resumption, in consequence of a supposed right in the Nabob, then Mr Hastings should have recollected the guarantee of the Company granted to the Begums; unless it was meant to be said, that Mr Hastings acted in that, as in other instances; and assured them of his protection, until the very moment when it was wanted. It was idle, however, to dwell on the conduct or free agency of a man who, it was notorious, had no will of his own. What Mr Middleton asserted at that bar would scarcely be put in competition with a series of established facts; by which it appeared, that the Nabob had submitted to every indignity, and yielded to every assumption. It was an acknowledged fact, that he had even been brought to join in that paltry artifice which had been termed the subornation of letters. This practice was carried to such a length, that he in the end complained, in a manner rather ludicrous, that he was really tired of sending different characters of Mr Bristow, in pursuance of the directions sent to the resident. He had pronounced black white and white black so often, that he really knew not what to say; and, therefore, begged that, once for all, the friends of Mr Hastings might be considered as his, and that their enemies might also be the same. After this, it was superfluous to argue that the Nabob could direct his views to so important an object as the seizing of the treasures, unless he had been impelled by Mr Middleton, and authorised by Mr Hastings!"

[The Court then adjourned till June 10th, on which day Mr Sheridan pointed out the inconsistency of the affidavits taken before Sir Elijah Impey, and produced as evidence of the treason of the Begums, and the perjury committed by Sir Elijah himself; and with great talent summed up the evidence, proving that the Nabob was merely an involuntary agent in the seizure of the treasures of the Begums, and the resumption of the Jaghires.

In consequence of Mr Sheridan being taken suddenly ill, the Court adjourned till the 13th, when Mr Sheridan concluded his address.]

"Mr Sheridan began by apologising for the interruption which his indisposition had caused on the former day. He assured their lordships, in the strongest terms, that nothing but the importance of the cause, to which he felt himself totally unable to do justice, could have made him trespass on that indulgence which, on other occasions, he had so amply experienced.

"He had, then, concluded with submitting to their lordships the whole of the correspondence, as far as it could be obtained, between the principals and agents, in the nefarious plot carried on against the Nabob vizier and the Begums of Oude. These letters were worthy the most abstracted attention of their lordships, as containing not only a narrative of that foul and unmanly conspiracy, but also a detail of the motives and ends for which it was formed, and an exposition of the trick, the quibble, the prevarication, and the untruth with which it was then acted, and now attempted to be defended! The question would undoubtedly suggest itself, why the correspondence ever was produced by the parties against whom it was now adduced in evidence, and who had so much reason to distrust the propriety of their own conduct? To this the answer was, that it was owing to a mutual and providential resentment which had broken out between the parties, which was generally the case between persons concerned in such transactions. Mr Middleton was incensed, and felt as a galling triumph the confidence reposed by the Governor-general in other agents. Mr Hastings was offended by the tardy wariness which marked the conduct of Middleton; by the various remonstrances by the agent—though, as knowing the man to whom they were addressed, they were all grounded on motives of policy—not of humanity—and of expediency, which left justice entirely out of the question; but the great ostensible ground of quarrel was, that Middleton had dared to spend *two days* in negotiation—though that delay had prevented the general massacre of upwards of two thousand persons! The real cause, however, of this difference, was a firm belief on the part of Mr Hastings, that Mr Middleton had inverted their different situations, and kept the *lion's share* of plunder to himself. There were, undoubtedly, some circumstances to justify this suspicion. At the time when Mr Hastings had first complained, the Nabob's treasury was empty, and his troops so mutinous for their pay as even to threaten his life; yet in this moment of gratitude and opulence, Middleton intimated the Nabob's desire to make Mr Hastings a present of £100,000. That sacrifice, however, not being deemed sufficient, Mr Middleton was recalled, and Major Palmer was sent in his room with instructions to tell the Nabob that such a donation was not to be attempted: the prince, however. with an unfortunate want of recollection, said, that 'no such offer had ever been in his mind.' Thus, it had always been considered as the heightening of a favour bestowed, that the receiver should not know from what quarter it came; but it was reserved for Mr Middleton to improve on this by such a delicate refinement, that the person giving should be totally ignorant of the favour he conferred!

"But, notwithstanding these little differences and suspicions, Mr Hastings and Mr Middleton, on the return of the latter to Calcutta in October, 1782, continued to live in the same style of friendly collusion and fraudulent familiarity as ever. But when Mr Bristow,* not answering the purposes of Mr Hastings, was accused on the suborned letters procured from the Nabob, one of which pronounced him the blackest character in existence, while another, of the same date, spoke of him as a very honest fellow, Mr Hastings thought it might appear particular; and therefore, after their intimacy of six months, accuses Mr Middleton also before the board at Calcutta. It was then that, in the rash eagerness which distinguished his pursuit of every object, Mr Hastings had incautiously, but happily for the present purposes of justice, brought forth these secret letters. It mattered not what were the views which induced Mr Hastings to bring that charge; whether he had drawn up the accusation, or obliged Mr Middleton with his aid in framing a defence; the whole ended in a repartee, and a poetical quotation from the Governor-general. The only circumstance material to the purposes of humanity, was the production of instruments by which those who had violated every principle of justice and benevolence were to see their guilt explained, and, it was to be hoped, to experience that punishment which they deserved.

"To those private letters it was that their lordships were to look for whatever elucidation of the subject could be drawn from the parties concerned. Written in the moments of confidence, they declared the real motive and object of each measure; the public letters were only to be regarded as proofs of guilt, whenever they established a contradiction. The counsel for the prisoner had chosen, as the safest ground, to rely on the public letters, written for the concealment of fraud and purpose of deception. They had, for instance, particularly dwelt on a public letter from Mr Middleton, dated in December, 1781, which intimated some particulars of supposed contumacy in the Begums, with a view to countenance the transactions which shortly after took place, and particularly the resumption of the jaghires. But this letter, both Sir Elijah Impey and Mr Middleton had admitted, in their examination at that bar, to be totally false; though if it were in every point true, the apprehension of resistance to a measure, could not, by any means, be made a ground for the enforcement of that measure in the first instance. The counsel seemed displeased with Mr Middleton for the answer, and therefore repeated the question. The witness, however, did not really fall into their humour; for he declared, that he did not recollect a particle of the letter; and, though memory was undoubtedly not the *forte* of Mr Middleton, he was not, perhaps, entirely faulty on this occasion, as the letter was, certainly, of a later fabrication, and, perhaps, not from his hand. This letter, however, was also in direct contradiction to every one of the defences set up by Mr Hastings. Another

* Mr Middleton's successor.

public letter, which had been equally dwelt on, spoke of the 'determination of the Nabob' to resume the jaghires. It had appeared in evidence, that the Nabob could, by no means, be compelled to yield to their measures; that it was not until Mr Middleton had actually issued his own perwannas for the collection of the rents, that the Nabob, rather than be brought to the utmost state of degradation, agreed to let the measure be brought forward as his own act! The resistance of the Begums to that measure, was noticed in the same letter, as an instance of female levity, as if their defence of the property assigned for their subsistence, was to be made a reproach; or, that they deserved a reproof for female lightness, by entertaining a feminine objection to their being starved!

"This resistance to the measure, which was expected, and the consoling slaughter on which Mr Hastings relied, were looked to in all those letters as a justification of the measure itself. There was not the smallest mention of the anterior rebellion, which, by prudent afterthought, had been so greatly magnified. There was not a syllable of those dangerous machinations which were to have dethroned the Nabob; of those sanguinary artifices by which the English were to have been extirpated. Not a particle concerning those practices was mentioned in any of Middleton's letters to Hastings, or in the still more confidential communication which he maintained with Sir Elijah Impey; though, after the latter, his letters were continually posting, even when the chief justice was travelling round the country in search of affidavits. When, on the 28th of November, he was busied at Lucknow on that honourable business, and when, three days after he was found at Chunar, at the distance of two hundred miles, prompting his instruments, and, like Hamlet's ghost, exclaiming, 'Swear!'—his progress on that occasion was so whimsically sudden, when contrasted with the gravity of his employer, that an observer would be tempted to quote again from the same scene,* 'Ha! old Truepenny, canst thou mole so fast i' the ground?' Here, however, the comparison ceased; for when Sir Elijah made his visit to Lucknow, 'to whet the almost blunted purpose' of the Nabob, his language was wholly different from that of the poet: it would have been much against his purpose to have said,

> "'Taint not thy mind, nor let thy soul contrive
> Against thy mother aught!'

"On the subject of those affidavits, he would only make another single observation. Sir Elijah Impey had denied all acquaintance with their contents, though he had been actually accompanied to Buxar by Major Davy, who there translated them from the Persian, for the use of Mr Hastings!† There was amongst them an affidavit, taken in English, from a native at Buxar,

* Act i., sc. 5. The line in Shakspere is, "Well said, old Mole! canst work i' the earth so fast?"

† Major Davy had also, by an affidavit sworn before Sir Elijah Impey himself testified to the correctness of his translation.

but which was first explained to the deponent by Major Davy, in the presence of Sir Elijah Impey. How far, therefore, the assertion of the chief justice was plausible, and how far this fact was consistent with that assertion, he should leave it to their lordships to determine.

"It was in some degree observable, that not one of the private letters of Mr Hastings had been produced at any time. Even Middleton, when all confidence was broken between them by the production of his private correspondence at Calcutta, either feeling for his own safety, or sunk under the fascinating influence of his master, did not dare attempt a retaliation! The letters of Middleton, however, were sufficient to prove the situation of the Nabob, when pressed to the measure of resuming the jaghires, in which he had been represented as acting wholly from himself. He was there described as lost in sullen melancholy, with feelings agitated beyond expression, and with every mark of agonised sensibility. To such a degree was this apparent, that even Middleton was moved to interfere for a temporary respite, in which he might be more reconciled to the measure. 'I am fully of opinion,' said he, 'that the despair of the Nabob must impel him to violence; I know also that the violence must be fatal to himself; but yet I think, that with his present feelings he will disregard all consequences.' Mr Johnson, also, the assistant-resident, wrote at the same time to Mr Hastings, to aver to him that the measure was dangerous, that it would require a total reform of the collection, which could not be made without a campaign! This was British justice! this was British humanity! Mr Hastings ensures to the allies of the Company, in the strongest terms, their prosperity and his protection; the former he secures by sending an army to plunder them of their wealth, and to desolate their soil! His protection is fraught with a similar security, like that of a vulture to a lamb; grappling in its vitals! thirsting for its blood! scaring off each petty kite that hovers round; and then, with an insulting perversion of terms, calling sacrifice protection!—an object for which history seeks for any similarity in vain. The deep-searching annals of Tacitus—the luminous philosophy of Gibbon—all the records of man's transgressing, from original sin to the present period, dwindle into comparative insignificance of enormity, both in aggravation of vile principles, and extent of their consequential ruin! The victims of this oppression were confessedly destitute of all power to resist their oppressors; but that debility, which from other bosoms would have claimed some compassion, with respect to the mode of suffering, here excited but the ingenuity of torture! Even when every feeling of the Nabob was subdued, nature made a lingering, feeble stand within his bosom; but, even then, that cold unfeeling spirit of magnanimity, with whom his doom was fixed, returned with double acrimony to its purpose, and compelled him to inflict on a parent that destruction of which he was himself reserved but to be the last victim!

"Yet, when cruelty seemed to have reached its bounds, and guilt to have ascended to its climax, there was something in the character of Mr Hastings which seemed to transcend the latter, and overleap the former; and of this

kind was the letter to the Nabob which was despatched on this occasion. To rebuke Mr Middleton for his moderation, as was instantly done, was easily performed through the medium of a public and a private letter. But to write to the Nabob in such a manner that the command might be conveyed, and yet the letter afterwards shown to the world, was a task of more difficulty, but which it appeared, by the event, was admirably suited to the genius of Mr Hastings. His letter was dated the 15th of February, 1782, though the jaghires had been then actually seized, and it was in proof that it had been sent at a much earlier period. He there assured the Nabob of his coincidence with his wishes respecting the resumption of the jaghires: he declares, that if he found any difficulty in the measure, he, Mr Hastings, would go to his assistance in person, and lend his aid to punish those who opposed it; 'for that nothing could be more ardent than his friendship, or more eager than his zeal for his welfare.' The most desperate intention was clothed in the mildest language. But the Nabob knew, by sad experience, the character with whom he had to deal, and therefore was not to be deceived; he saw the dagger glistening in the hand which was treacherously extended, as if to his assistance, and from that moment the last faint ray of nature expired in his bosom. Mr Middleton, from that time, extended his iron sceptre without resistance; the jaghires were seized—every measure was carried—and the Nabob, with his feelings lacerated and his dignity degraded, was no longer considered as an object of regard. Though these were circumstances exasperating to the human heart, which felt the smallest remains of sensibility, yet it was necessary, in idea, to review the whole from the time that this treachery was first conceived, to that when, by a series of artifices the most execrable, it was brought to a completion. Mr Hastings would there be seen standing aloof indeed, but not inactive in the war! He would be discovered in reviewing his agents, rebuking at one time the pale conscience of Mr Middleton, and, at another, relying on the stouter villany of Hyder Beg Khan.* With all the calmness of veteran delinquency, his eye ranged through the busy prospect, piercing through the darkness of subordinate guilt, and arranging with congenial adroitness the tools of his crimes, and the instruments of his cruelty.

"The feelings of the several parties at the time would be most properly judged of by their respective correspondence. When the Bow Begum, despairing of redress from the Nabob, addressed herself to Mr Middleton, and reminded him of the guarantee which he had signed, she was instantly promised that the amount of her jaghire should be made good; though Mr Middleton said he could not interfere with the *sovereign* decision of the Nabob respecting the lands. The deluded and unfortunate woman 'thanked God that Mr Middleton was at hand for her relief,' at the very instant when he was directing every effort to her destruction; when he had actually written the orders which were to take the collection out of the hands of her

* The minister of the Nabob, but under the control of Mr Hastings.

agents ! Even when the Begum was undeceived,—when she found that British faith was no protection,—when she found that she should leave the country, and prayed to the God of nations not to grant his peace to those who remained behind, still there was no charge of *rebellion*,—no recrimination made to all her reproaches for the broken faith of the English ; nay, when stung to madness, she asked ' how long would be their reign ?' No mention of her disaffection was brought forward ; the stress was therefore idle, which the counsel for the prisoner strove to lay on these expressions of an injured and enraged woman. When at last irritated beyond bearing, she denounced infamy on the heads of her oppressors, who was there who would not say that she spoke in a *prophetic* spirit, and that what she had then predicted, had not, even to its last letter, been accomplished ! But did Mr Middleton, even to this violence, retort any particle of accusation ? No ; he sent a *jocose* reply stating, that he had received such a letter under her seal, but that, from its contents, he could not suspect it to come from her ; and hoping, therefore, that she might detect the *forgery !* Thus did he add to foul injuries the vile aggravation of a *brutal jest ;* like the tiger that prowls over the scene where his ravages were committed, he showed the savageness of his nature by grinning over his prey, and fawning over the last agonies of his unfortunate victim.

" Those letters were then enclosed to the Nabob, who, no more than the rest, made any attempt to justify himself by imputing criminality to the Begums. He merely sighed a hope that his conduct to his parents had drawn no shame upon his head ; and declared his intention to punish—not any disaffection in the Begum—but some officious servants who had dared to foment the misunderstanding between them and the Nabob. A letter was finally sent to Mr Hastings, about six days before the seizure of the treasure from the Begums, declaring their innocence, and referring the Governor-general to Captain Gordon, whose life they had protected, and whose safety should have been their justification. That inquiry was never made ; it was looked on as unnecessary ; because the conviction of their innocence was too deeply impressed.

The counsel, in recommending attention to the public in preference to the private letters, had remarked, in particular, that one letter should not be taken as evidence, because it was manifestly and abstractedly private, as it contained in one part the anxieties of Mr Middleton for the illness of his son. This was a singular argument indeed ; and the circumstance, in his mind, merited strict observation, though not in the view in which it was placed by the counsel. It went to show that some, at least, of those concerned in these transactions, felt the force of those ties which their efforts were directed to tear asunder ; that those who could ridicule the respective attachment of a mother and a son ; who would prohibit the reverence of the son to the mother who had given him life ; who could deny to maternal debility the protection which filial tenderness should afford—were yet sensible of the straining of those chords by which they were connected. There

was something connected with this transaction so wretchedly horrible, and so vilely loathsome, as to excite the most contemptible disgust. When I see (said Mr Sheridan) in many of these letters the infirmities of age made a subject of mockery and ridicule; when I see the feelings of a son treated by Mr Middleton as puerile and contemptible; when I see an order given from Mr Hastings to harden that son's heart, and to choke the struggles of nature in his bosom; when I see them pointing to the son's name and to his standard, while marching to oppress the mother, as to a banner that gives dignity, that gives a holy sanction and a reverence to their enterprise; when I see and hear these things done; when I hear them brought into three deliberate defences set up against the charges of the Commons, my lords, I own I grow puzzled and confounded, and almost begin to doubt whether, where such a defence can be offered, it may not be tolerated. And yet, my lords, how can I support the claim of filial love by argument? What can I say on such a subject? What can I do, but repeat the ready truths which, with the quick impulse of the mind, must spring to the lips of every man on such a theme? Filial piety!—it is the primal bond of society; it is that instinctive principle, which, panting for its proper good, soothes, unbidden, each sense and sensibility of man! It now quivers on every lip!—it now beams from every eye!—it is an emanation of that gratitude which, softening under the sense of recollected good, is eager to own the vast countless debt it ne'er, alas! can pay, for so many long years of unceasing solicitudes, honourable self-denials, life-preserving cares!—it is that part of our practice where duty drops its awe — where reverence refines into love! It asks no aid of memory!—it needs not the deductions of reason!—pre-existing, paramount over all, whether law, or human rule, few arguments can increase and none can diminish it!—it is the sacrament of our nature—not only the duty, but the indulgence of man—it is his first great privilege—it is amongst his last most endearing delights!—it causes the bosom to glow with reverberated love!—it requites the visitations of nature, and returns the blessings that have been received!—it fires emotion into vital principle!—it renders habituated instinct into a master-passion—sways all the sweetest energies of man—hangs over each vicissitude of all that must pass away—aids the melancholy virtues in their last sad tasks of life, to cheer the languors of decrepitude and age—explores the thought—elucidates the aching eye—and breathes sweet consolation even in the awful moment of dissolution! If these are the general sentiments of man, what must be their depravity—what must be their degeneracy—who can blot out and erase from the bosom the virtue that is most deeply rooted in the human heart, and twined within the chords of life itself? Aliens from nature, apostates from humanity! And yet, if there be a crime more fell, more foul—if there be anything worse than a wilful persecutor of his mother, it is that of a deliberate instigator and abettor to the deed: this it is that shocks, disgusts, and appals the mind more than the other; to view, not a wilful parricide, but a parricide by compulsion—a miserable wretch, not actuated by the stubborn evils of his own worthless

heart, not driven by the fury of his own distracted brain, but lending his sacrilegious hand, without any malice of his own, to answer the abandoned purposes of the human fiends that have subdued his will! To condemn crimes like these, we need not talk of laws, or of human rules; their foulness, their deformity, does not depend on local constitutions, on human institutes, or religious creeds; they are crimes, and the persons who perpetrate them are monsters, who violate the primitive condition on which the earth was given to man; they are guilty by the general verdict of human kind.

"The Jaghires being seized (Mr Sheridan proceeded to observe), the Begums were left without the smallest share of that pecuniary compensation promised by Mr Middleton; and as, when tyranny and injustice take the field, they are always attended by their camp-followers, paltry, pilfering, and petty insult—so, in this instance, the goods taken from them were sold at a mock sale at inferior value. Even gold and jewels, to use the language of the Begums, instantly lost their value when it was known that they came from them! Their ministers were therefore imprisoned to extort the deficiency which this fraud had occasioned; and those mean arts were employed to justify a continuance of cruelty. Yet, these again were little to the frauds of Mr Hastings. After extorting upwards of £600,000, he forbade Mr Middleton to come to a conclusive settlement. He knew that the treasons of our allies in India had their origin solely in the wants of the Company. He could not, therefore, say that the Begums were entirely innocent, until he had consulted the general record of crimes—the cash account at Calcutta! And this prudence of Mr Hastings was fully justified by the event; for there was actually found a balance of twenty-six lacks more against the Begums, which £260,000 worth of treason had never been dreamed of before. 'Talk not to us,' said the Governor-general, 'of their guilt or innocence, but as it suits the Company's *credit!* We will not try them by the code of Justinian, nor the institutes of Timur; we will not judge them either by the British laws, or their local customs! No! we will try them by the multiplication table, we will find them guilty by the rule of three, and we will condemn them according to the sapient and profound institutes of Cocker's Arithmetic.'

"Proceeding next to state the distresses of the Begums in the Zenana, and of the women in the Khord Mahal, Mr Sheridan stated that some observation was due to the remark made by Mr Hastings in his defence, where he declared 'that whatever were the distresses there, and whoever was the agent, the measure was, in his opinion, reconcileable to justice, honour, and sound policy.' Major Scott, the incomparable agent of Mr Hastings, had declared this passage to have been written by Mr Hastings with his own hand. Mr Middleton, it appeared, had also avowed his share in those humane transactions, and blushingly retired. Mr Hastings then cheered his drooping spirits. 'Whatever part of the load,' said he, 'yours cannot bear, my unburdened character shall assume. I will crown your labours with my irresistible approbation. Thus, twin-warriors, we shall go forth! you find

memory, and I'll find character—and assault, repulse, and contumely shall all be set at defiance!'

"If I could not prove (continued Mr Sheridan) that those acts of Mr Middleton were in reality the acts of Mr Hastings, I should not trouble your lordships by combating these assertions; but as that part of his criminality can be incontestibly ascertained, I shall unequivocally appeal to the assembled legislators of this realm, and call on them to say, whether those acts were justifiable on the score of policy. I shall appeal to all the august presidents in the courts of British jurisprudence, and to all the learned ornaments of the profession, to decide whether these actions were reconcileable to justice. I shall appeal to a reverend assemblage of prelates, feeling for the general interests of humanity, and for the honour of the religion to which they belong—let them determine in their own minds, whether those acts of Mr Hastings and Mr Middleton were such as a *Christian* ought to perform, or a *man* to avow!"

He next detailed the circumstances of the imprisonment of Bahr Ally Khan and Jewar Ally Khan, the ministers of the Nabob, on the grounds above stated; "was with them confined that *arch-rebel*, Sumpshire Khan,* by whom every act of hostility that had taken place against the English was stated to have been committed. No inquiry, however, was made concerning his treason, though many had been held respecting the treasure of the others. He was not so far noticed as to be deprived of his food;† nor was he even complimented with fetters; and yet, when he is on a future day to be informed of the mischiefs he was now stated to have done, he must think that, on being forgotten, he had a very providential escape! The others were, on the contrary, taken from their milder prison at Fyzabad; and, when threats could effect nothing, transferred by the meek humanity of Mr Middleton to the fortress of Chunargur. There, where the British flag was flying, they were doomed to deeper dungeons, heavier chains, and severer punishments; there, where that flag was flying, which was wont to cheer the depressed, and to elate the subdued heart of misery, these venerable but unfortunate men were fated to encounter something lower than perdition, and something blacker than despair! It appeared from the evidence of Mr Holt and others, that they were both cruelly flogged, though one was about seventy years of age, to extort a confession of the buried wealth of the Begums! Being charged with disaffection, they proclaimed their innocence. 'Tell us where

* The Fowzdar, or officer in the service of the Begums at Saunda, on the occasion of Captain Gordon and his detachment arriving there.—See p. 140.

† The following note from Mr Middleton to Lieutenant Francis Rutledge, dated January 20th, 1782, had been read in evidence:—

"Sir,

"When this note is delivered to you by Hoolas Roy, I have to desire that you order the two prisoners to be *put in irons, keeping them from all food, &c., agreeably to my instructions of yesterday.*

(Signed) "Nath. Middleton."

are the remaining treasures (was the reply)—it is only treachery to your immediate sovereigns — and you will then be fit associates for the representatives of British faith and British justice in India!' O Faith! O Justice! (exclaimed Mr Sheridan), I conjure you, by your sacred names, to depart for a moment from this place, though it be your peculiar residence; nor hear your names profaned by such a sacrilegious combination as that which I am now compelled to repeat!—where all the fair forms of nature and art, truth and peace, policy and honour, shrunk back aghast from the deleterious shade; where all existences, nefarious and vile, had sway; where, amidst the black agents on one side, and Middleton with Impey on the other, the toughest head, the most unfeeling heart—the great figure of the piece, characteristic in his place, stood aloof and independent from the puny profligacy in his train!—but far from idle and inactive, turning a malignant eye on all mischief that awaited him!—the multiplied apparatus of temporising expedients, and intimidating instruments! now cringing on his prey and fawning on his vengeance! now quickening the limpid pace of craft, and forcing every stand that retiring nature can make in the heart! violating the attachments and the decorums of life! sacrificing every emotion of tenderness and honour! and flagitiously levelling all the distinctions of national characteristics! with a long catalogue of crimes and aggravations beyond the reach of thought for human malignity to perpetrate, or human vengeance to punish!

"It might have been hoped, for the honour of the human heart, that the Begums had been themselves exempted from a share in these sufferings; and that they had been wounded only through the sides of their ministers. The reverse of this, however, was the fact. Their palace was surrounded by a guard, which was withdrawn by Major Gilpin, to avoid the growing resentments of the people, and replaced by Mr Middleton, through his fears from that 'dreadful responsibility' which was imposed on him by Mr Hastings. The women of the Khord Mahal, who had not been involved in the Begums' supposed crimes; who had raised no sub-rebellion of their own; and who, it had been proved, lived in a distinct dwelling, were causelessly involved in the same punishment; their residence surrounded with guards, they were driven to despair by famine, and, when they poured forth in sad procession, were driven back by the soldiery, and beaten with bludgeons to the scene of madness which they had quitted. These were acts (Mr Sheridan observed) which, when told, need no comment; he should not offer a single syllable to awaken their lordships' feelings; but leave it to the facts which had been proved, to make their own impressions.

"The argument now reverted solely to this point, whether Mr Hastings was to be answerable for the crimes committed by his agent? It had been fully proved that Mr Middleton had signed the treaty with the superior Begum in October, 1778. He had acknowledged signing some others of other dates, but could not recollect his authority. These treaties had been fully recognised by Mr Hastings, as was fully proved by the evidence of Mr Purling, in the year 1780. In that of October, 1778, the Jaghire was secured

which was allotted for the support of the women in the Khord Mahal: on the first idea of resuming these Jaghires a provision should have been secured to those unfortunate women; and in this respect Mr Hastings was clearly guilty of a crime, by his omission of making such provision. But still he pleaded, that he was not accountable for the cruelties which had been exercised. This was the plea which Tyranny, aided by its prime minister Treachery, was always sure to set up. Mr Middleton had attempted to strengthen this plea by endeavouring to claim the whole infamy of those transactions, and to monopolise the guilt! He dared even to aver that he had been condemned by Mr Hastings for the ignominious part he had acted: he dared to avow this, because Mr Hastings was on his trial, and he thought he should never be tried; but in the face of the court, and before he left the bar, he was compelled to confess that it was for the lenience, not the severity, of his proceedings, that he had been reproved by Mr Hastings.

"It would not, he trusted, be argued, that because Mr Hastings had not marked every passing shade of guilt, and because he had only given the bold outline of cruelty, that he was therefore to be acquitted. It was laid down by the law of England—that law which was the perfection of reason—that a person ordering an act to be done by his agent, was answerable for that act with all its consequences. Middleton had been appointed, in 1777, the avowed and private agent—the second-self of Mr Hastings. The Governor-general had ordered the measure:* Middleton declared that it could not have been effected by milder means. Even if he never saw, nor heard afterwards of the consequences of the measure, he was answerable for every pang that was inflicted, and for all the blood that was shed. But he had heard, and that instantly, of the whole. He had written to arraign Middleton of forbearance and of neglect! He commanded them to work upon their hopes and fears, and to leave no means untried, until—to speak their own language, but which would be better suited to the banditti of a cavern—'they obtained possession of the secret hoards of the old ladies.' He would not allow even of a delay of two days to smooth the compelled approaches of a son to his mother, on such an occasion! His orders were peremptory; and if a massacre did not take place, it was the merit of accident, and not of Mr Hastings. After this, would it be said that the prisoner was ignorant of the acts, or not culpable for their consequences? It was true, he had not enjoined in so many words the guards, the famine, and the bludgeons; he had not weighed the fetters, nor numbered the lashes to be inflicted on his victims. But yet he was equally guilty, as if he had borne an active and personal share in each transaction. It was as if he had commanded that the heart should be torn from the bosom, and yet had enjoined that no blood should follow. He was in the same degree accountable to the law, to his country, to his conscience, and to his God!

* The verbatim orders to Middleton by Mr Hastings were: "You yourself must be personally present, you must not allow any negotiation or forbearance; but must prosecute both services (namely, the seizure of the treasures and the resumption of the Jaghires), until the Begums are at the entire mercy of the Nabob."

" Mr Hastings had endeavoured also to ged rid of a part of his guilt, by observing that he was but one of the Supreme Council, and that all the rest had sanctioned those transactions with their approbation. If Mr Hastings could prove, however, that others participated in the guilt, it would not tend to diminish his own criminality. But the fact was, that the Council had in nothing erred so much as in a criminal credulity given to the declarations of the Governor-general. They knew not a word of those transactions until they were finally concluded. It was not until the January following that they saw the mass of falsehood which had been published under the title of ' Mr Hastings's Narrative.' They had been then unaccountably duped into the suffering a letter to pass, dated the 29th of November, intended to deceive the Directors into a belief that they had received intelligence at that time, which was not the fact. These observations (Mr Sheridan said) were not meant to cast any obloquy on the Council; they had undoubtedly been deceived, and the deceit practised on them by making them sign the Narrative, was of itself a strong accusation of Mr Hastings, and a decided proof of his own consciousness of guilt. When tired of corporeal infliction, his tyranny was gratified by insulting the understanding. Other tyrants, though born to greatness, such as a Nero, or a Caligula, might have been roused, it had been supposed, by reflection, and awakened into contrition; but here was an instance which spurned at theory and baffled supposition; a man born to a state at least of equality, inured to calculation, and brought up in habits of reflection; and yet proving in the end that monster in nature, a *deliberate and reasoning tyrant.*

" The Board of Directors received those advices which Mr Hastings thought proper to transmit; but, though unfurnished with any other materials to form their judgments, they expressed very strongly their doubts, and as properly ordered an inquiry into the circumstances of the alleged disaffection of the Begums; pronouncing it, at the same time, a debt which was due to the honour and justice of the British nation. This inquiry, however, on the directions reaching India, Mr Hastings thought it absolutely necessary to elude. He stated to the Council, it being merely stated that ' if on inquiry certain facts appeared,' no inquiry was thereby directly enjoined! ' It would revive (said he) those animosities that subsisted between the Begums and the vizier, which had then subsided. If the former were inclined to appeal to a foreign jurisdiction, they were the best judges of their own feeling, and should be left to make their own complaint.' All this, however, was nothing to the magnificent paragraph which concluded this minute, and to which Mr Sheridan also requested the attention of the court. ' Beside, (said Mr Hastings) I hope it will not be a departure from official language to say, that the *majesty of justice* ought not to be approached without solicitation; she ought not to descend to inflame or provoke, but to withhold her judgment until she is called on to determine!' What is still more astonishing is, that Sir John Macpherson (who, though a gentleman of sense and honour, yet rather oriental in his imagination, and

not learned in the sublime and beautiful, formed the immortal leader of this prosecution, and who had before opposed Mr Hastings) was caught by this bold bombastic quibble, and joined in the same words, 'that the *majesty of justice* ought not to be approached without solicitation.'

"But *justice* is not this halt and miserable object (continued Mr Sheridan); it is not the ineffective bauble of an Indian pagod; it is not the portentous phantom of despair; it is not like any fabled monster, formed in the eclipse of reason, and found in some unhallowed grove of superstitious darkness and political dismay! No, my lords!

"In the happy reverse of all these, I turn from this disgusting caricature to the *real image! Justice* I have now before me, august and pure—the abstract idea of all that would be perfect in the spirits and the aspirings of men; where the mind rises, where the heart expands; where the countenance is ever placid and benign; where her favourite attitude is to stoop to the unfortunate—to hear their cry, and to help them—to rescue and relieve, to succour and save: majestic from its mercy; venerable from its utility; uplifted, without pride; firm, without obduracy; beneficent in each preference; lovely, though in her frown!

"On that *justice* I rely; deliberate and sure, abstracted from all party purpose and political speculation; not in words, but in facts! You, my lords, who hear me, I conjure by those rights it is your best privilege to preserve; by that fame it is your best pleasure to inherit; by all those feelings which refer to the first term in the series of existence, the original compact of our nature, our controlling rank in the creation. This is the call on all to administer to truth and equity, as they would satisfy the laws and satisfy themselves, with the most exalted bliss possible, or conceivable for our nature; the self-approving consciousness of virtue, when the condemnation we look for will be one of the most ample mercies accomplished for mankind since the creation of the world!

"My lords, I have done."

On the conclusion of Mr Sheridan's speech, the court adjourned to the next session of Parliament.

Speech in reply to Lord Mornington, on moving the address to the King, after the speech from the throne, on the opening of Parliament, 21st January, 1794, in which his Majesty urged upon Parliament the necessity of vigorously prosecuting the war against France, which had been declared shortly after the execution of Louis XVI.

"Mr Sheridan began with observing, that the noble lord who had just sat down, had divided a speech, more remarkable for its ability than its brevity, into two parts: the first, a detail of all the atrocities that had been committed during the whole course of the revolution in France; the second,

a kind of posthumous arraignment of the offences of Brissot * and his associates. As he did not perceive any noble or learned member inclined to rise on behalf of the accused, so he conceived the pleadings on the part of the prosecution to be closed; and, as the Speaker was evidently not proceeding to sum up the evidence, he hoped he might be permitted to recall the attention of the House to the real object of that day's consideration. He admired the emphasis of the noble lord in reading his voluminous extracts from his various French documents; he admired, too, the ingenuity he had displayed in his observations upon those extracts; but he could not help further expressing his admiration, that the noble lord should have thought proper to have taken up so many hours in quoting passages in which not one word in ten was to the purpose; and often, where they did apply to the question, they directly overset the principles they were brought forward to support.

"The noble lord's purpose was to prove that France had begun the war with Great Britain; this, he appeared to think, he had established the moment he had shown that Brissot and others had promulgated in print a great many foolish and a great many wicked general principles, mischievous to all established governments; and this, indeed, had been the only way in which any one had ever endeavoured to fix the act of hostile aggression upon France. No part of the King's speech, it seems, more fully met the noble lord's approbation than that in which he had warned us to keep in sight the real grounds and origin of the present war.† For his part, he knew not how

* The leader of the Girondists, the middle party in the revolution between the Constitutionalists and the Jacobins. He was executed during the reign of terror, together with twenty more of his party—1793.

† The conduct of ministers, previous to the declaration of war, had been throughout most guarded and pacific towards France; but the aggressions of the latter country, under the direction of its revolutionary leaders, were such that war at length became inevitable on the part of this country. The decree of the National Convention, in the name of the French nation, on the 19th November, 1792, "that they would grant fraternity to all those people who wished to procure liberty," might, of itself, have been construed into a declaration of war against all Europe. But, even on the incorporation of Savoy with France, the declaration of the independence of Belgium, and the opening of the Scheldt, although preparations were made to support her allies, England carefully maintained a strict neutrality. Conferences were held between the representatives of the two countries, with a view to secure peace; but, as the acts of the French government were not reconcileable with their professions, warlike preparations still continued; and, as a proof of the real feelings of the French government towards this country, it may be mentioned, that, at the very time the French minister expressed a desire for peace, and respect for the independence of England, a circular letter was sent by Monge, the Minister of Marine, to all the French sea-ports, addressed to "all friends of liberty," in which occurred the following passage (quoted, amongst others, by Mr Pitt, in the House of Commons):—"The King and his Parliament mean to make war against us: will the English republicans suffer it? Already these freemen show their discontent, and the repugnance which they have to bear arms against their brothers the French. Well, we will fly to their assistance; we will make a descent on that island; we will hurl thither 50,000 caps of liberty; we will plant there

to obey the call, for he knew not how to keep in sight that which had never yet been in his view. The real grounds of the war had never yet been explained, either to that House or to the nation, but shifting clouds had veiled them from the public eye. The noble lord, however, appears to have understood his Majesty's allusion; he recollects the real grounds upon which the war was, in point of fact, undertaken; that is, he knows the means by which we had been brought into this war: we had been brought into it by repeated declamations on all that the frenzy, folly, and rashness of individuals in France had either said or written, by which the passions of this country had been roused, or their fears excited, in order to second the views of those who had determined to plunge us into it at all events; therefore the noble lord, consistently enough, imagined that a repetition of the same means which induced us to commence hostilities, was the best method of persuading us to continue them. Hence all this passionate declamation, hence this laborious farrago of extracts and anecdotes—of extracts from a book which the noble lord allowed every one to have read; and anecdotes, of which no man who saw the newspapers could be ignorant. But what was the sum of all that he had told the House? that great and dreadful enormities, at which the heart shuddered, and which not merely wounded every feeling of humanity, but disgusted and sickened the soul, had been committed. All this was most true; but what did all this prove? What, but that eternal and unalterable truth which had always presented itself to his mind, in whatever way he had viewed the subject, namely, that a long-established despotism so far degraded and debased human nature, as to render its subjects, on the first recovery of their rights, unfit for the exercise of them; but never had he, or would he, meet but with reprobation, that mode of argument which went, in fact, to establish, as an inference from this truth, that those who had been long slaves ought, therefore, to remain so for ever! No; the lesson ought to be, he would again repeat, a tenfold horror of that despotic form of government which had so profaned and changed the nature of civilised man, and a still more jealous apprehension of any system tending to withhold the rights and liberties of our fellow-creatures. Such a form of government might be considered as twice cursed; while it existed, it was solely responsible for the miseries and calamities of its subjects; and, should a day of retribution come, and the tyranny be destroyed, it was equally to be charged with all the enormities which the folly or frenzy of those who overturned it should commit.

"But the madness of the French people was not confined to their proceedings within their own country; we, and all the powers of Europe, had

the sacred tree, and stretch out our arms to our brother republicans; the tyranny of their government shall soon be destroyed."

The precautions adopted by the English government were fully justified by the event; for, within a few days after the execution of Louis XVI., the National Convention, finding their plans ripe for execution, threw off the mask, and formally declared war against the King of Great Britain, on 1st February, 1793.

to dread it. True; but was this also to be accounted for? Wild and unsettled as their state of mind necessarily was upon the events which had thrown such power so suddenly into their hands, the surrounding states had goaded them into a still more savage state of madness, fury, and desperation. We had unsettled their reason and then reviled their insanity; we drove them to the extremities that produced the evils we arraigned; we baited them like wild beasts, until at length we made them so. The conspiracy of Pilnitz,* and the brutal threats of the royal abettors of that plot, against the rights of nations and of men, had, in truth, to answer for all the additional misery, horrors, and iniquity, which had since disgraced and incensed humanity. Such has been your conduct towards France, that you have created the passions which you persecute. You mark a nation to be cut off from the world; you covenant for their extermination; you swear to hunt them in their inmost recesses; you load them with every species of execration; and you now come forth, with whining declamations, on the horror of their turning upon you with the fury which you inspired.

"Sir, I should think it sufficient to answer thus generally to all the pathetic appeals to the passions, so constantly resorted to on this subject; but the noble lord, I am ready to admit, has, on the present occasion, endeavoured to ground more of argument, in one point of view, on the inflammatory passages and anecdotes he has quoted, than has been usual with those who have most practised this mode of treating the subject. I cannot, however, agree with the noble lord, that he has omitted any advantage to his case for the sake of saving our time. In going over the pamphlet of Brissot, he tells us, rather whimsically, that he passes over this passage, and runs over that, when all the while he specifically details what he declares he will scarcely touch upon. In fact, he has passed over nothing but the question; and now, mark the purpose of all this; observe the important conclusion for which, he says himself, he has dwelt so long on these facts, and I admit it to be a great and a serious one. Laying aside all question of aggression on the part of France, or of necessity, on our part, to enter into the war—all this is done, it seems, to show the House that the system now adopted by the government of that country, is so abhorrent to the feelings of human nature —so contrary to the instinctive love of harmony and of social order implanted

* What Sheridan here calls the "conspiracy," was the celebrated convention of Pilnitz, between the Emperor of Austria and the King of Prussia, in 1791; the object of which was declared to be, to check the spread of revolutionary principles, and "to employ their forces jointly, in the most efficacious manner, to place the King of France in a situation to secure, in its most perfect liberty, the basis of a monarchical government, equally agreeable to the right of sovereigns and the prosperity of the French nation."

The language employed by Sheridan, clearly shows him to have been unfairly prejudiced by party feeling. The interference of the foreign powers, though in the event it turned out unfortunate, was undeserving of such harsh reproach, caused, as it was, by reasonable fears of the spread of principles destructive of all government and religion, and by sympathy for the degraded position of the French king.

in the heart of man—so ruinous to external force, as well as to internal peace, prosperity, and happiness, that it cannot stand. This is the conclusion which the noble lord wishes to draw from all the facts and opinions that he has detailed. I close with him. I will admit his facts. I will admit that the system now prevalent in France is all that he has called it: and what ought to be our conclusion with respect to such a government? What, but that we ought to leave to the natural workings of the discords which it is calculated to engender, the task of its overthrow; that if it will not stand of itself, it is not necessary for us to attack it. Without disputing any of his premises, for the present, I will grant the noble lord, not only his principle, but the foundation upon which he builds it. I agree with him, that it is contrary to the eternal and unalterable laws of nature, and to the decrees of the Maker of man and of nations, that a government founded on and maintained by injustice, rapine, murder, and atheism, can have a fixed endurance or a permanent success; that there are, self-sown in its own bosom, the seeds of its own inevitable dissolution. But if so, whence is our mission to become the destroying angel to guide and hasten the anger of the Deity? Who calls on us to offer, with more than mortal arrogance, the alliance of a mortal arm to the Omnipotent? or to snatch the uplifted thunder from his hand, and point our erring aim at the devoted fabric which his original will has fated to fall and crumble in that ruin which it is not in the means of man to accelerate or prevent? I accede to him the piety of his principle; let him accede to me the justice of my conclusion; or let him attend to experience, if not to reason; and must he not admit, that hitherto all the attempts of his apparently powerful, but certainly presumptuous, crusade of vengeance, have appeared unfavoured by fortune and by Providence; that they have hitherto had no other effect than to strengthen the powers—to whet the rapacity—to harden the heart—to inflame the fury, and to augment the crimes of that government, and that people, whom we have rashly sworn to subdue, to chastise, and to reform?

"The noble lord appears to have been aware that the number of passages he has quoted from Brissot's book, and other publications, must be considered as having no other object than to excite the mirth or inflame the passions of the House, unless he had concluded by drawing some inference from them applicable to the real subject in discussion; and this, at length, he has condescended to attempt, by affirming they all tended to prove that France not only must have been the aggressor, and England the attacked party, but that France is still the party desirous of continuing the war. But how have his quotations borne him out? That Brissot and Robespierre, previous to the experiment on Brabant,* equally wished to propagate principles of re-

* At the commencement of the war between France and the allied powers of Austria and Prussia, and immediately after the celebrated declaration of the convention of Pilnitz, Dumouriez, the French minister, taking advantage of the unsettled state of Brabant and Flanders (which, only two years previously, had been in open rebellion

publicanism in every country in Europe. I will grant to him, if he pleases, the latter endeavoured to effect it by force in Brabant, while the former wished to accomplish it by reason, and the example of prosperity which he hoped France would afford. But what does all this prove, when the noble lord, in the very same breath, is obliged to confess that a short experience made both parties retract their opinion and practice; and, so far from boasting of having provoked a war with England upon such principles, or for such purposes, the strongest reproach that either faction could throw upon the other was, in mutual accusation, of having been the cause of war with the only power in Europe with whom France was eager to continue at peace? On this head, says the noble lord, 'Robespierre imputes it to Brissot, Brissot retorts it upon Robespierre; the Jacobins charge it upon the Girondists, the Girondists recriminate upon the Jacobins; the mountain thunders it upon the valley,* and the valley re-echoes it back against the mountain;' all facts, tending to contradict the assertion which the noble lord professed to establish by them, and making still plainer—what, indeed, the whole conduct of France had made sufficiently manifest at the time—namely, that there was no one party, of whatever description, in that country, which was not earnest to avoid a rupture with this,† nor any party which we may not

against the Emperor), determined to assume the offensive, and invade Belgium. The spirit of insurrection existing in that country, and the weakness of the Flemish fortress, were reckoned as almost ensuring success to the enterprise. Owing, however, to the unwise division of the French army (consisting principally of young troops) into four columns, the expedition ended in total failure. But the victory of the Austrians did not last long: within a few months Dumouriez again invaded Belgium, and this time with better success. The battle of Jemappe, in which the French were completely successful, decided the event of the campaign, and Dumouriez entered Brussels in triumph on 13th November, 1792, and the whole of Flanders, Brabant, and Hainault, with the other Belgian provinces, were subjected to France. Soon afterwards, several pretended deputies from the Belgian people hastened to Paris, and implored the Convention to grant them a share of that liberty and equality which was to confer such inestimable blessings on France. Various decrees were issued in consequence; and, after the mockery of a public choice, hurried on in several of the towns by hired Jacobins and well-paid patriots, the incorporation of the Austrian Netherlands with the French republic was formally pronounced.

In the next campaign, Dumouriez was beaten by the Austrians under the Prince of Saxe Coburg, at Neerwinden, and Belgium placed under the government of the Archduke Charles, the Emperor's brother. But, in 1795, the republican arms again prevailed; and, by the victory at Fleurns, the French a second time became masters of the country. The representatives of Brussels once more repaired to the National Convention of France, to solicit the re-incorporation of the two countries, which was declared on the 1st October, 1795.

* The Jacobins, under Robespierre, occupied the upper benches on the left, while the Girondists occupied the right of the assembly. From this circumstance, the Jacobins acquired the name of "The Mountain," while those members who belonged to neither party filled the middle space, and were designated the "Plain, or Marsh."

† As to the honesty of the professions of peace, see note p. 164. The real intentions of the French government were also evidenced by the following fact, viz., that

at this moment reasonably believe to be inclined to put an end to hostilities.

"The noble lord, however, thinks he has established a great deal, when he has proved that all parties in the Convention were, at the same time, fond of the system of fraternising, at it is called, or of making proselytes to the general principles of republicanism. It may be so; but it would not have been uncandid in the noble lord to have dated the origin of this system, and to have marked the provocation to it; nor unfair to have acknowledged that even this principle also has been since completely abandoned by all parties. If he refers to it as a motive for our entertaining a just jealousy of them, he ought to admit their abandonment of it as a ground for our abandoning that jealousy. If their professing such a doctrine was a provocation to hostility on our part, their retracting it is an opening to reconciliation. From the moment they solemnly disavowed all intention or disposition to interfere in the governments of other nations, why should not we have renounced any intention of interfering in theirs? But instead of this, what has been our conduct? We continue to remind and reproach the French with their unjust and insolent conduct in respect to Brabant and Genoa; at the same time we ourselves adopt and act upon the very principles they have abjured, or rather upon principles of still more extravagant insolence and injustice. Who did not reprobate the folly and profligacy of endeavouring to force upon the people of Brabant, French forms, French principles, and French creeds—of dragging them to the tree of liberty, and forcing them to dance round its roots, or to hang upon its branches! But what has been the conduct of Great Britain, so loud in the condemnation of such tyranny, under the mask of liberty? What has been her conduct to Genoa—to Switzerland—to Tuscany—and, as far as she dared, to Denmark and to Sweden? For her insolence has been accompanied by its usual attendant, meanness. Her injustice has been without magnanimity. She wished to embark the world in the confederacy against France, the moment she thought proper to join it. That neutrality, of which she herself boasted but a month before, became instantly a heinous crime in any other state of Europe—and how has she proceeded? With those that are powerful, and whose assistance would have been impor-

on the 10th January, 1793, Dumouriez communicated with Moranda, who commanded the French army in the Netherlands, in his absence, and directed him to prepare, with all possible secresy, to invade Holland, then in alliance with this country, within twelve days; yet, only two days after these orders had been given, the Convention passed a decree, directing the council to inform the British government that it was the intention of the republic to maintain peace and fraternity with England, and to respect her independence, as well as that of her allies, so long as they should not attack France.

A further instance, also, of the real designs of the French government against this country and its constitution, appeared by the reply of the President of the Convention to a republican address by a deputation of Englishmen, in which he observed, "that royalty in Europe was in the agonies of death; that the declaration of right, now placed by the side of thrones, was a fire which in the end would consume them; and he even hoped that the time was not far distant, when France, England, Scotland, and Ireland—all Europe—all mankind—would form but one peaceful family."

tant, she has only expostulated and prevaricated; but in how little, as well as odious a light, has she appeared, when threatening and insulting those petty states whose least obedience to her tyrannic mandates might bring great peril on themselves, and whose utmost efforts could give but little aid to the allies? The noble lord has, with a just indignation, execrated the cruel and perfidious conduct of the fraternising French to the Brabanters; but will he defend the fraternity of the just and magnanimous to these Genoese? Have we not adopted the very words, as well as spirit, of democratic tyranny? We say to the timid, helpless Genoese, 'You have no right to judge for yourselves; we know what is best for you; you must and shall make a common cause with us; you must adopt *our* principles, *our* views, *our* hatreds, and *our* perils; you must tremble at dangers which do not threaten you, and resent injuries which have never been offered to you; you must shed your republican blood in the cause of royalty; in short, you must fraternise with us; you must be our friends, our allies. If you hesitate, we will beat your walls about your ears, slaughter your people, and leave your city in smoking ruins, as an example to other petty states of the magnanimity of the British arms, and of the justice and moderation of British counsels.' Oh, shame, Sir! let us never hear these fraternising principles, formerly professed by France, quoted as a just provocation for attacking her, while we ourselves, with the most shameless inconsistency, are avowing them in every part of Europe, and practising them where we dare.

"The noble lord, still pursuing his anecdotes and his argument, that France must have been the aggressor, and that the war was a war of necessity on our part, next retails to us the conduct of Citizen Genet,* her emissary to the United States of America. Here, again, I give the noble lord his facts, and again I declare him to be equally unfortunate in his conclusion. I admit everything as he states it, with respect to Citizen Genet. I agree in condemning the impolitic outrages he practised against the government of America; I reprobate the indecent insults he offered to General Washington; I disapprove of his erection of Jacobin clubs in that country, his establishing consular tribunals for the judgment of prizes, &c., &c. But why has the noble lord overlooked the event of all these heinous and repeated provocations? America remains neutral, prosperous, and at peace; America, with a wisdom, prudence, and magnanimity which we have disdained, thrives at this moment in a state of envied tranquillity, and is hourly clearing the paths to unbounded opulence. America has monopolised the commerce and the advantages which we have abandoned. Oh, turn your eyes to her; view

* This French agent had, by his endeavours to introduce the French revolutionary principles, and to rouse the Americans to take an active part in support of their former allies, the French, against the English, fomented an insurrection in the counties of Alleghany and Washington, which was with difficulty suppressed, by the energy and moderation of Washington, who was president at the time. The divisions caused by Genet continued long after his recall, and subsequently formed a cause of complaint by the United States to the French government.

her situation, her happiness, her content! Observe her trade and her manufactures adding daily to her general credit, to her private enjoyments, and to her public resources; her name and government rising above the nations of Europe, with a simple but commanding dignity, which wins at once the respect, the confidence, and the affection of the world. And is America degraded by this conduct and by this condition? Has Washington debased himself by his temper and moderation? Has he sunk his character, and made himself contemptible in the eyes of the high-spirited statesmen of Europe? Will the noble lord attempt to prove this? or will he abandon his instance and his argument? The conduct of the French, in sending such a missionary as Genet to America, is brought up by him as the strongest proof of the enmity of the French to the peace and existing governments of all nations, and of the necessity of all nations uniting against them; and the behaviour of Genet himself is stated as an outrage too gross for human patience to submit to; and yet, the selfish American senate, confiding in the good sense of their fellow-citizens, conscious of never having betrayed their trust, and looking only to the interests of the people they represented, found no cause for war or quarrel in the novelty or madness of French principles; and mean Washington felt no personal resentment at insults which did not provoke, because they could not degrade him!

"Such has been the event of two nations viewing the same circumstances in a different temper and with different sensations. Both had been equally insulted by this new presumptuous republic; attempts had been equally made to spread the doctrines of that republic in the bosoms of both: both were equally interested in the preservation of the principles of civil order and regular government: yet, owing to the different councils that directed these two nations, the Americans are, at this moment, the undismayed, undegraded, and unembarrassed spectators of the savage broils of Europe; whilst we are engaged in a struggle, as we have been this day distinctly told by our Ministers, not for our glory or prosperity, but for our actual existence as a nation.

"The next part from Brissot's pamphlet dwelt upon by the noble lord as a further proof that the French had always intended to make war against us, was, that the minister Monge had promised, as early as October, to have thirty ships of the line at sea from Brest, in April, and fifty in July; but this, it seems, was happily prevented by the vigorous measures of the British ministry; and if our ministers had not taken the steps they did, the noble lord tells us, by the bye, they would have deserved to have been whipped as schoolboys, or hanged as traitors. And what were the vigorous exertions which these vigilant ministers made? Forsooth, they stopped two corn ships* in the river Thames, destined for France; and this, it seems, totally

* Soon after the commencement of the war with France, orders were given to detain all American vessels freighted with corn to that country, paying for them and the freight; and shortly afterwards an order was issued to seize all American ships carrying

defeated the equipment of these fifty ships of the line! But here let me ask the noble lord how it came to pass, if our ministers had such intelligence as early as October, that no naval preparations were commenced on our part till the month of February? for this fact has been admitted by him in another part of his speech; and the lateness of our equipment has been pleaded by him with another view, forgetting that there cannot be a stronger charge brought against his friends, and that they do indeed deserve to be whipped as schoolboys, or hanged as traitors, if, after receiving intelligence of the French preparations so early as October, they neglected, as in fact they did, all precautions on the part of this country, excepting the notable and powerful expedient of plundering two neutral sloops of a few sacks of French corn!

"However, laying aside the merit or demerit of our minister, no proof to the noble lord's purpose arises out of this threat of the minister Monge. The noble lord himself confesses that no part of the promise was kept; it was, in fact, a natural gasconade of the French admiralty, at a time we were insulting them; and, that the execution of such an equipment was not attempted,* is much stronger evidence of their not having intended to break with us, than their having made the boast, is of a contrary determination. But it is, unfortunately, the interest of the cause the noble lord is supporting, to refer, on all occasions, to words, rather than to facts.

"The noble lord, still pursuing his authority, Brissot, quotes that author's recommendation to the English of a pamphlet of Condorcet's,† addressed to our parliamentary reformers; who encourages us, it seems, to proceed to disregard numbers, assuring us (being well informed, doubtless, of our object) that 'revolutions must always be the work of the minority. The French revolution was accomplished by the minority!' Nay, according to Brissot, it was the work of no more than twenty men! Such is the exertion that arises from the confidence of those who look to spirit and energy alone for success, and not to numbers. If this be true, it certainly is a most ominous thing for the enemies of reform in England; for if it holds true of necessity, that the minority still prevails in national contests, it must be a consequence that the smaller the minority the more certain must be the success. In what a dreadful situation then must the noble lord be, and all the alarmists! for never, surely, was the minority so small, so thin in number as the present.

provisions and stores to the French colonies, and to compel them to give security to land their cargoes in British or neutral ports. In consequence of this last order more than 600 American vessels were seized in five months.

* It appears, however, that on the 13th of January, 1792 (the day after the decree of the Convention, mentioned in note p. 168), an addition of thirty line of battle ships was made to the French navy, though the French had then in commission more ships than were preparing in the British ports.

† One of the most distinguished disciples of Voltaire, and in politics a Girondist. However misled, he appears to have been a true philanthropist, and a man of unwearied activity in promoting all such reforms as he thought beneficial.

Conscious, however, that M. Condorcet was mistaken in our object, I am glad to find that we are terrible in proportion as we are few; I rejoice that the liberality of session, which has thinned our ranks, has only served to make us more formidable. The alarmists will hear this with new apprehensions; they will, no doubt, return to us with a view to diminish our force, and encumber us with their alliance in order to reduce us to insignificance. But what has the nonsense any French pamphleteer may have written, or the notions he may have formed of the views of parties in this country, to do with the question? or how can it be gravely urged as a proof of the determination of the French people to attack us?

"The noble lord having gone through this part of his detail, triumphantly asks, whether he has not established his point, and proved the hostile mind of France, and that the object of all her parties was war with England? To which I answer, that he has proved nothing like it, and that two-thirds of the instances he has adduced have a tendency to prove the contrary. But instead of diving, for their purposes, in the random words of their orators, in the more flighty controversies of their party writers, or even in the hasty and incoherent reports of their committees, let us look to acts and facts; let us examine fairly the conduct of Great Britain towards France, and of France towards Great Britain, from the 10th of August* to the declaration of war."

[Here Mr Sheridan enumerated the various circumstances which showed the growing inveteracy of Great Britain from the first outbreak of the revolution to the time of the King's death; the countenance given to the treaty of Pilnitz, the withdrawal of our minister from Paris, the seizure of French property in neutral vessels, the banishing of French subjects, the violation of the treaty of commerce, and, finally, the dismissal of their ambassador; all of which he contended had been borne by the French with a submission which nothing but their desire of peace with this country could have produced, amidst the fury and pride which actuated their conduct towards all the rest of Europe.]

"They solicited, they expostulated; they pressed for explanation and negotiation; and even after their ambassador had been driven from this country they sent a new negotiator;† nor did the sincerity of their professions for peace with us depend on words alone; for, to preserve this object, they actually abstained from the invasion of Holland when within their grasp, when their arms appeared irresistible, and success inevitable. Every fact spoke aloud that we forced France into the quarrel. Which party first declaimed, 'We are at war,' is a matter of trivial and childish distinction; nor do I, in

* The day of the memorable attack on the Tuilleries, in 1792.

† On the news of the execution of Louis XVI. arriving in London, M. Chauvelin, the French minister, received notice to quit the British dominions within eight days, as France no longer had any government that could be recognised. After war had been declared, Le Brun, the French Minister for Foreign Affairs, in April, 1793, proposed to send M. Maret as plenipotentiary to this country, to negotiate terms of peace; but the British government took no notice of the proposition.

this place, mean to argue that Great Britain was wrong in so preferring a state of open war against France, and joining in the general confederacy against her; nay, I will for the present grant that it was a war of sound sense, policy, and justice; but still it was a war of choice on the part of Great Britain; and from that responsibility the Minister never can, nor shall, disengage himself.

"Embarked, however, as we are in the war, it must, no doubt, be a matter of astonishment to many gentlemen to find the advocates of Ministers so eternally and earnestly labouring in proof of France having been the aggressor, and of having chosen to make war on us. The prominent point for the present discussion seems rather, under the circumstances, to be, how we shall end the conflict, let who will have begun it; or, if peace cannot be had, how we shall prosecute the war with vigour and success. But the object of these gentlemen, in recurring to the other ground, is obvious. They will not hear of peace; they do not wish for it; and, finding themselves feeble in argument to show that the country ought to be of their opinion, they endeavour to establish a belief that it is France who does not wish for peace with us; and this they think they do establish by proving, or rather by asserting, that it was France who provoked the war. If the war commenced in self-defence and necessity on our part, self-defence and necessity must continue it. They would evade the question, whether it is our interest to have peace, by arguing, that it is not in our power: from this delusion it is of the utmost importance that the public mind should be rescued.

"All the professed objects for which we went to war have been obtained: our ally, Holland, is safe; Brabant is recovered; the ideas of adding to the extent of their own country, or of interfering in the government of others, but as measures of warfare and retaliation, have been distinctly and unequivocally disavowed by the present government of France; and notwithstanding all their lofty boasts and insulting threats, which are, in truth, the mere retorts of passion to our wild declamations against them, there is no question but that they would be ready to treat with us, or with any of the allied powers, to-morrow, simply upon the principle of being left to the exercise of their own will within their own boundaries. Let the experiment be made: if they prefer and persist in war, then I will grant that the noble lord will have some reason to maintain that their minds were always disposed to that measure, and that war could not have been avoided on our part. But till then, I am astonished that the minister who sits near the noble lord does not feel it necessary to his own dignity to oppose, himself, this paltry argument of the act of aggression having come from them, instead of leaving that task to us, to whom, comparatively, the fact is indifferent. When he hears this called a war of necessity and defence, I wonder he does not feel ashamed of the meanness which it spreads over the whole of his cause, and the contradiction it diffuses among the greater part of his arguments. Will he meet the matter fairly? Will he answer to this one question distinctly—If France had abstained from any act of aggression against Great Britain, and her ally, Holland, should we have remained inactive spectators of the last campaign,

idle, apart, and listening to the fray, leaving the contest to Austria and Prussia, and whatever allies they could themselves have obtained? If he says this, mark the dilemma into which he brings himself, his supporters, and the nation. This war is called a war unlike all other wars that ever man was engaged in. It is a war, it seems, commenced on a different principle, and carried on for a different purpose from all other wars. It is a war in which the interest of individual nations is absorbed in the wider consideration of the interest of mankind. It is a war in which personal provocation is lost in the outrage offered generally to civilised man;—it is a war for the preservation of the possessions, the morals, and the religion of the world;—it is a war for the maintenance of human order and the existence of human society. Does he then mean to say that he would have sat still—that Great Britain would have sat still—with arms folded, and, reclining in luxurious ease on her commercial couch, have remained an unconcerned spectator of this mighty conflict, and left the cause of civil order, government, morality, and religion, and its God, to take care of itself? or to owe its preservation to the mercenary exertions of German and Hungarian barbarians, provided only that France had not implicated Great Britain by a special offence, and forced us into this cause of divine and universal interest by the petty motive of a personal provocation? He will not tell us so; or, if he does, to answer a momentary purpose, will he hold the same language to our allies? Will he speak thus to the Emperor? Will he speak thus to the King of Prussia? Will he tell them that we are not volunteers in this cause?—that we have no merit in having entered into it?—that we are in confederacy with them only to resent a separate insult offered to themselves; which redressed, our zeal in the cause, at least, if not our engagements to continue in the alliance, must cease? Or, if he would hold this language to those powers, will he repeat it to those lesser states whom we are hourly dragging into this perilous contest, upon the only plea by which such an act of tyrannical compulsion can be attempted to be palliated, namely, that a personal ground of complaint against the French is not necessary to their enmity? but, that as the league against that people is the cause of human nature itself, every country where human feelings exist has already received its provocation in the atrocities of this common enemy of human kind. But, why do I ask him whether he would hold this language to the Emperor, or the King of Prussia? The King of Prussia, Sir, at this moment tells you, even with a menacing tone, that it is your own war; he has demanded from you a subsidy and a loan;* you have endeavoured to evade his demand by pleading the tenor of your treaty of defensive alliance with

* A British subsidy of two millions and a half was afterwards voted in April, 1794, at the instance of Mr Pitt, to enable the King of Prussia to keep the field. There seems much reason to doubt the good faith of the Prussian monarch towards his allies; and it was generally believed in England that, as Prussia had begun the war from the hope of dismembering France, she was anxious to recede from it the moment she found that object impracticable.

him, and that, as the party attacked, you are entitled to the whole of his exertions. He denies that you are the party attacked, though he applauds the principles upon which you are the aggressor; and is there another power in Europe to whom our government will venture to refer the decision of this question? If what I now state is not the fact, let me see the Minister stand up and contradict me. If he cannot, let us no longer bear that a fallacy should be attempted to be imposed on the people of this country, which would be treated with scorn and indignation in every other corner of Europe. From this hour let him either abandon the narrow ground of this being a war of necessity, entered into for self-defence, or give up the lofty boast of its being a war of principle, undertaken for the cause of human nature.

"Still, still, however, be the war a war of necessity or choice, of defence or of principle, peace must some time or other be looked to. True; but in the present state of France, first, it is contended that no means of negotiation can be found: and, secondly, that even if you negotiated and agreed, no security for the performance of the agreement is to be had An honourable member behind the noble lord (Mr Hawkins Browne) has given it as his opinion, that we, who recommend peace, ought to point out the means by which Ministers may commence and carry on a negotiation. With submission, I should rather have thought it a fitter proceeding that those who embark a nation in war for a specific purpose, should be called on to point out the probable means of obtaining the end proposed; but no such thing. Ask them what their end is, or how it is to be obtained: the constant answer is, No matter; the war is a just war, and it is impossible to treat for peace; we know not even how to set about it; and with this answer we must be content to persevere in a pursuit which all experience has proved to be ruinous, in order to attain an object which no man attempts to prove to be practicable. The noble lord, however, does not lay so much stress on the impossibility of our treating for peace under the present circumstances, as upon the improbability of such a peace being safe or permanent. What security can we have for the continuance of a peace made with such a government as that of France? The factions of to day are supplanted by others to-morrow; the rulers of the hour pass in succession from the tribune to the scaffold; there is nothing permanent or stable in their system. Granted. And what then are you waiting for before you will treat? Is it simply that you will have some person on the throne of France—some first magistrate with the name of KING, be his power what it may, before you will enter into any negotiation? I suspect that this feeling is obstinately rooted in the minds of some persons. It is not, however, avowed; on the contrary, our own proclamations declare, that though the re-establishment of monarchy in France would be a soothing and conciliatory circumstance, it is not an indispensable preliminary to the re-establishment of peace. What, then, is the desideratum? A stable and responsible system of government of some sort or other, that would give a reasonable expectation of duration and security to peace when established.

"I ask, is any change which our arms may probably effect in France likely to

produce such a government? The form of it we are not to prescribe. Where are the *men* we hope to see come forward? We commenced with reprobating and reviling La Fayette, Rochefoucalt, and the whole party of reforming royalists. Brissot and the republicans of the 10th of August overthrew and destroyed that party. We may boast of having assisted Robespierre and Danton in the destruction of Brissot and those republicans. Robespierre and Danton now possess the lead. Are you waiting till such men as Hebert and Chaumette* shall have destroyed Robespierre and Danton? Would such a change give you the stable responsibility and trustworthy government you desire? or do you see any class of men still under them, which, in the revolution of enormities, gives you a fairer promise of your object? No man will hold out such an expectation. Whence, then, can arise the sort of government with whom you would condescend to treat? I affirm, from only one possible source; from a general reformation in the public mind of France, founded on a deep sense of their calamities, and a just abhorrence of their past crimes. Then will cease their bloody internal enmities; then will cease the selfish, factious contests of their leaders; then will cease their revolting system of plunder, rapine, and impiety; then, in other words, will be established their republic on the immortal and unconquerable principles of wisdom and of justice, which, without diminishing the invincible enthusiasm which even now animates their military exertions, will supply those exertions with copious and unperishable resources; and then truly we shall have no objection to acknowledge them as a nation, and to treat with them. Admirable prudence! consummate policy! Whilst the certain seeds of internal discord, weakness, and dissolution are sown among them, and are checked in their rank growth only by the counteraction of stronger feelings against the foreign enemies that surround them, we will not stoop to treat, because we cannot have security for the future; but if, fortunately, our perseverance in assailing them shall at length eradicate all that is vicious and ruinous in their internal system, strengthening, as at the same time it must, the energies and solidity of their government, then our pride will abate, respectful negotiation will follow, and a happy peace may be concluded—a happy peace, for the terms of which we must be left in future for ever at their mercy! This I contend to be, if not the object, the result of waiting for that stable, responsible, and trustworthy government in France which the noble lord demands; unless, as I said before, the operative, though not the avowed motive for the war, is simply to establish a monarchy in that country, or perish in the attempt.

"Leaving the origin and object of the war, our attention is next called to the great progress that has been made by the allies since we entered into the confederacy! Our success has been such, it seems, that we ought to proceed,

* The leaders of the party of "Anarchists," or ultra-revolutionists, actuated by the basest passions, and utterly devoid of all moral or religious feeling. Endeavouring to stir up the populace against the Convention, and raise themselves on its fall, they caused their own destruction; being suddenly arrested, and, as a natural consequence at that time, immediately led to the scaffold.

be the object what it may. First, the noble lord asks, with a triumphant air, whether France is not in a much worse condition than at the beginning of the campaign? Unquestionably she is: she has lost some hundreds of thousands of lives, and exhausted many millions of resource; and what is more, Sir, all Europe is in a worse condition, for the same reason. But I demand an answer to a question more to the purpose, and in truth the only question which belongs to the argument. I ask if there is any one man, in this House or out of it, who thinks that the allies are nearer to the object they had in view, than they were at the beginning of the campaign? Let this question be fairly and honestly answered before we madly goad this nation to new exertions, and load our fellow-subjects with new burdens. I meet the noble lord in his review of the state of the allies and of France at the commencement of the campaign, and at the present hour; but I enter into that review with the object I have stated before my eyes, and not to strike a balance on little petty successes which conduce nothing to the main purpose.

"Previous to the ending of the last session of parliament, my right honourable friend (Mr Fox) renewed, by a motion in this House, his exhortation to government to treat for peace. We had then achieved all the avowed purposes for which we went to war. Holland was safe,—the opening of the Scheldt out of the question,—the enemy was driven out of Brabant,—we had succeeded in the West Indies,—Tobago was taken,—and Lord Hood had sailed to the Mediterranean with a force sufficient to insure the superiority of the British flag in that quarter. Yet all these advantages, now so vauntingly enumerated, were then held as trifles; they were treated comparatively as insignificant matters; and nothing but some important, decisive blow against the common enemy, which the power of the allies in the ensuing campaign was certain to effect, could make it prudent to think of peace. What has that campaign produced? The surrender of Condé, Valenciennes, and Quesnoy; the re-possession of Mayence, and the partial destruction of the marine of Toulon. Compare this with our boasts, our exertions, and expectations, with what has been gained to the cause of France. First, the very corner-stone on which the hope of the most sanguine rested, was not (for they had before their eyes the experience of the Duke of Brunswick's former campaign*) the vigour and probable impression of the invading arms; but the zeal, the numbers, and the fury of the royal party in France, then roused

* The Duke of Brunswick acted as generalissimo of the combined armies of Austria and Prussia, on the occasion of the first rupture with France after the convention of Pilnitz. After publishing his celebrated violent manifesto, threatening extermination to all opponents (which certainly aggravated the evils it was intended to repress), and marching as the champion of Christendom against revolutionary France, to punish her for her misdeeds, and reinstate a constitutional government, all Europe was filled with surprise when, having at length come up with the main body of the Republican army under Dumouriez, a negotiation was quietly entered into, and orders given to retreat to Germany, and the allied army ignominiously returned home without having accomplished a single object for which the expedition was formed.

to action by their monarch's recent execution, and encouraged by the indignation and horror which that event appeared universally to excite. Where now is that royal party? Where is the hope which pointed to their banners? They rose, indeed, and everything that courage, vengeance, and despair could dictate, they attempted. Long and fruitlessly they looked to the allies for assistance; at length the voice and the flag of Britain cheered their hearts and roused their efforts; would, for the honour of Britain, we could bury the event in silent shame, and in the graves of the poor mangled victims of their own delusion and our professions! If there yet exists an eagerness for a royal crusade in England, will the British arms ever again insult the coasts of Brittany or Provence with the offer of their protection? If there yet remains the remnant of a royal party in France, will Toulon* and Noirmoutier ever be forgotten? The great body of the French royalists is destroyed and annihilated, and with them the very strongest ground upon which we built our first expectations of success.

"The next point most relied upon by the eager advocates for the war, was the state even of the republican parties in Paris. Two factions,† equally anti-monarchical, but actuated by the most fell and deadly animosity towards each other, ruled, severed, and dispirited the French people. By the furious contests of the leaders of these parties, the attention of the nation was engrossed, their efforts were enfeebled, their exertions shackled, and their hopes dismayed. Observers in all parts looked for a speedy and open conflict between them; and it was confidently and reasonably expected that the event of that conflict would inevitably be a ferocious and extensive civil war.

* The cities of Toulon, Lyons, and Marseilles were the first to rebel against the bloodthirsty tyranny of the Convention. Lyons was, after two months' siege, taken by storm, by the revolutionary army, and its inhabitants cruelly massacred, and the city almost totally demolished. Marseilles, terrified by the dreadful fate of Lyons, submitted without resistance; but Toulon resolutely refused to yield, and sought the aid of the English fleet in the Mediterranean, under Lord Hood, who immediately threw into the town a reinforcement of 14,000 men, of whom about 5,000 were English. After a desperate resistance, it was found impossible to save the town, and the allies, after setting fire to the French arsenal and ships of the line, and four frigates which were in the harbour, with the greatest difficulty re-embarked, and conveyed on board as many of the wretched inhabitants as possible in the confusion, leaving the rest to experience the merciless barbarity of their besiegers, who, on seeing the arsenal on fire, rushed forward, *en masse*, to wreak their revenge on the defenceless royalists. Numbers plunged into the sea, and made fruitless endeavours to reach the vessels; others were seen to shoot themselves on the beach, to avoid a more terrible death from the enraged republicans. The ships, crowded with a heterogenous mixture of different nations—men, women, and children from the hospitals—the mangled soldiers from their posts, with their wounds undressed—and the whole harbour resounding with the cries of distraction and agony from husbands, wives, parents, and children left on the shore, exhibited a scene dreadful beyond description. The flames at the same time spreading in all directions, with the blazing ships threatening every moment to explode and blow all around them into the air, rendered the spectacle more terrible. In short, neither language can express, nor the pencil paint, the horrors of that dreadful night, 19th December, 1793.—*Hughes.*

† The Jacobins and the Girondists.

This expectation was among the foremost of the resources of the allies. What has happened? To the astonishment of the world, one of these parties, apparently the most feeble, has not merely subdued, but extinguished the other—subdued them almost without an effort, and extinguished them without even an attempt made to avenge them; whilst the conquering party appear from that hour to have possessed not only more power, more energy, and more confidence, than any of their predecessors since the revolution, but even a vigour and fascination of influence and authority unparalleled in the history of mankind. This reliance, therefore, though reckoned on at the commencement of the campaign as a host of hope, is also gone.

"Again, we were told that the disgusting system of cashiering and destroying all the old-experienced officers, must create insubordination and mutiny in the army, and ultimately bring down the vengeance and indignation of the soldiers upon the Convention, and establish a military tyranny. Here, again, has ordinary speculation been foiled. The most victorious and popular generals have been arrested at the head of their troops; a commissioner from the Convention tells the armed line that it is his will: and, incredible as it may appear, there has scarcely been a single instance, countless almost as the number of their troops is, and compulsory as is the mode by which many of those numbers are gained—there scarcely has been a single instance of a military revolt against any of their decrees. All argument, therefore, that armies must in their nature disdain the control of such an assembly, must, however reluctantly, be given up, and to that fallacious expectation we can look no more.

"But the means even of supporting these armies, we were told, could not continue through half the campaign. Arms, ammunition, clothing, money, bread, all would speedily fail. The prediction, unfortunately, has failed in every particular. But, if our negative resources and our hopes of co-operation in France have all disappointed us, I presume we shall find a full compensation in the increased strength and spirit of the grand alliance. Let us see what was the state of the allies when we entered into the confederacy. The force of Austria unbroken, though compelled to abandon Brabant; and the power of the veteran troops of Prussia absolutely untried, though the seasons and disease* had induced them to retire from Champagne. What is their state now? Defeat has thinned their ranks, and disgrace has broken their spirit. They have been driven across the Rhine by French recruits, like sheep before a lion's whelp; and that, not from the mishap of a single great action lost, but after a succession of bloody contests of unprecedented fury and obstinacy. Where, now, is the scientific confidence with which we were taught to regard the efforts of discipline and experience, when opposed to an untrained multitude and unpractised generals? The jargon of professional pedantry is mute, and the plain sense of man is left to its own course. But have the efforts of our other allies made amends for the mis-

* The causes assigned for the retreat of the allied armies under the Duke of Brunswick and the King of Prussia (see note, p. 178).

fortunes of these two principals in the confederacy? Have the valour and activity of the Dutch, by land and sea, exceeded our expectations? Has the Portuguese squadron lessened the extent, and lightened the expense, of our naval exertions? Have the Indian states, whom we have bribed or bullied into our cause, made any very sensible impression upon the common enemy? Has our great ally, the Empress of Russia, hitherto contributed anything to the common cause, except her praises and her prayers? Are all, or any of them, in better spirits to act, or fuller of resource to act effectually, than they were at the commencement of the last campaign? But, let me throw all these considerations aside—every one of which, however, would singly outweigh the whole of the advantages placed in the opposite scale as gained by the allies; and, let me ask, is it nothing that the great and momentous experiment has been made, and that a single nation, roused by a new and animating energy, and defending what they conceive to be their liberty, has proved itself to be a match for the enmity and the arms of the world? * Is the pride which success in such a conflict has given to the individual heart of every man who has shared in it, to be estimated as nothing? Are the triumphs and rewards which the politic prodigality of their government heaps on the meanest of their ranks who suffer or distinguish themselves in their battles, fruitless, and of no effect? Or, finally, are we to hold as a matter of slight consideration, the daring and enthusiastic spirit, solicitous of danger and fearless of death, which, gradually kindled by all these circumstances, has now spread, with electrical rapidity, among such a race of people, so placed, so provided, and so provoked? Be he who he may that has reflected on all these circumstances, either singly or in the aggregate, and shall still say that the allies are at this moment nearer the attainment of their professed object than at the commencement of the last campaign—I say, that man's mind is either clouded by passion, corrupted by interest, or that his intellects were never properly framed.

"The noble lord, however, though not inclined to overrate the enemy, seems to have been aware that he might be driven to admit the magnitude of their exertions, and that it would be difficult to deny the efficacy of them. But, that we may not be dispirited, he has a solution ready for all this—both their exertions and their success are forced and unnatural. Another honourable gentleman, indeed, has told us, that if we had had only the real resources and the real spirit of France to contend with, we should have conquered them long ago. It may be so; but the worst of it is, they will not

* At the commencement of the campaign of 1793, France had to contend with 55,000 Austro-Sardinians from the Alps, 50,000 Spaniards from the Pyrenees, 66,000 Austrians or Imperialists, reinforced by 38,000 Anglo-Batavians. On the Lower Rhine and in Belgium, 33,000 Austrians between the Meuse and the Moselle, and 112,000 Russians, Austrians, Prussians, and Imperialists, of the Middle and Upper Rhine. To make head against these formidable enemies, the Convention ordered a levy of 300,000 troops, and, at the same time, established a Committee of Public Safety, with dictatorial power over persons and property.—*Hughes.*

suffer us to prescribe to them the sort of spirit and the kind of resources we should choose to contend with. This may be very unhandsome; but there is no remedy for it. 'They have, it is true, a great force,' says the noble lord, 'but it has not a sound foundation. They have a full public treasury, but their prosperity is unsound. The people obey the government, but the ground of their submission is unsound.' In short, he takes great pains to prove to us, that they ought not, in reason or nature, to make the stand they have hitherto maintained; and that they have no right to beat their enemies in the manner which they have. Their government, he undertakes to demonstrate, is not calculated to produce any such effects. It reminds me of the story of a tradesman who had a very admirable time-piece, made by a person who had never learned the business, and neither knew it mechanically nor scientifically. A neighbouring clockmaker, exasperated at this intrusion of natural genius, took great pains to convince the owner that he ought to turn his clock out of doors. It was in vain that the man assured him that it went and struck truly; that he wound it up like other clocks; and that it told him the hour of the day precisely. The artist replied, 'that all this might be very true, but that he could demonstrate that it had no right to go like other clocks, for it was not made upon sound principles.' The contest ended in his cajoling the poor man to part with his time-piece, and to buy from him, at three times the cost, a clock that did not answer half as well. I wish the noble lord would attempt to make a similar impression upon the French, and could prevail upon them to listen to him. I wish he could convince them, that this revolutionary movement of theirs, which, however unskilfully and unmethodically put together, appears so strangely to answer their purpose, is an unworthy jumble of ignorance and chance; and that they would be much better off if they would take a regular constitution of his choosing. If he could effect this, I should think his rhetoric well employed, and our chance of succeeding against them infinitely increased; otherwise his arguments and demonstrations on the subject here, are the idlest waste of breath possible. Experience and facts contradict him, and we smart under them.

"In corroboration of his general position, the noble lord next details to us the manner in which they have either neglected or oppressed their commerce. I have no doubt but that all he has stated on this subject is true, and that they have done it possibly upon system. I should not be surprised to hear that some distinguished senator of that country, with a mind at once heated and contracted by brooding over one topic of alarm, had started up in the Convention, and exclaimed, 'Perish our commerce, live our constitution;' neither should I be surprised to learn that the mass of the people, bowing to his authority, or worked on by fictitious alarms and fabricated rumours of plots, seditions, and insurrections, should have improved upon this patriotic exhortation, and, agreeing that their constitution was certainly to be preferred to their commerce, should have conceived that they could not thoroughly show the fervour of their zeal for the former, so well as by an unne-

cessary sacrifice of the latter. Whether the hint of this notable axiom was taken from the expressions of any enlightened member of our own commercial senate, or whether it was imported into this House from France, is what I cannot take upon me to decide. The only result worth our consideration is, that however their neglect of commerce may have abridged them of the luxuries, and even comforts of life, it has not hitherto curtailed them in the means of military preparations, or slackened the sinews of war.

"The next proof of the unsoundness of their condition is to be looked for in the enormous taxes and contributions levied upon the people. The noble lord has summed up his laborious statements upon this subject, by informing us that every man of £400 a year is obliged to give up £220 of it to the public; in which case, the noble lord, with great arithmetical accuracy, assures us that he retains but £180 for himself (the only conclusion throughout his speech in which I implicitly agree with him); and people of greater incomes, it seems, are called on to do the same. Now, again, I give the noble lord his facts, but again I accompany my assent with a plain question —do the people submit to make these sacrifices? He has not attempted to dispute their universal acquiescence. What, then, do his facts prove? What, but that so devoted are the whole people of France to the cause which they have espoused—so determined are they to maintain the struggle in which they have engaged—so paramount and domineering is the enthusiastic spirit of liberty in their bosoms—so insignificant, comparatively, all other pursuits and considerations—and, finally, so bitter and active their animosity against the conspiring powers which surround them, that individual property has ceased to be regarded, even by the possessor, but as subsidiary to the public cause; and the government which has demanded these unprecedented sacrifices yet retains its power, and does not appear to have impaired its popularity.

"'This system of exaction is *tremendous*,' says the noble lord; it is so, but to whom? to those who have to fight with such a people. He ought, however, in fairness, to have stated also, that these sacrifices and the exactions are to expire when peace has closed the struggle in which alone they originate, and the end is attained for which alone they are tolerated: till then, unquestionably, the whole country of France is regarded as one great fortress in a state of siege. To tell us how little respect is paid to private property, commercial principle, or personal privilege in such a state, is to prattle childishly: prove to us that the iron hand of violence and necessity, which has barred the course of justice and beat down all the security of private right throughout that besieged land, does not at the same time assist the one great object which is dearest to the general heart—successful resistance to the besiegers.

"The noble lord, however, not content with the unfairness of overlooking all the circumstances which imperious necessity must inevitably impose upon a country circumstanced as France is, thinks it fair and candid to contrast the proceedings of their Convention on the subject of supply and finance,

with the proceedings of the British minister and the British parliament. We, it seems, assist commerce, instead of oppressing it. We lend the credit of the public exchequer to our private merchants: and, for the means of carrying on the war, not even voluntary contributions are expected, unless it be in little female keepsakes for the army—of gloves, mittens, night-caps, and under-waistcoats, Certainly the contrast between the French means of supply and ours is obvious, and long may it continue so. But the noble lord pursues his triumph on this subject too far: not content with simply alluding to it, which one would have imagined would have answered all his purposes, he endeavours to impress it more forcibly on our minds by making a regular speech for our Chancellor of the Exchequer, and exultingly demanding what we should say, if his right honourable friend (Mr Pitt) were to come down and propose to the British Parliament such ways and means as the Minister of Finance in France is compelled to resort to. What should we think if he were to rise and propose that all persons who had money or property, in an unproductive state, should lend it without interest to the public? if he were to propose that all who had saved incomes from the bounty of the state should refund what they had received? What, finally, if all persons possessing fortunes of any size were called upon to give up the whole during the war, and reserve to themselves only the means of subsistence, or, at the utmost, £180 a year? Upon my word, Sir, I agree with the noble lord, that if his right honourable friend was to come down to us with any such proposition, he would not long retain his present situation. And with such a consequence inevitable, he not need remind us that there is no great danger of our Chancellor of the Exchequer making any such experiment, any more than of the most zealous supporters of the war, in this country, vying in their contributions with the abettors of republicanism in that. I can more easily fancy another sort of speech for our prudent minister. I can more easily conceive him modestly comparing himself and his own measures with the character and conduct of his rival, and saying, 'Do I demand of you, wealthy citizens, to lend your hoards to Government without interest? On the contrary, when I shall come to propose a loan, there is not a man of you to whom I shall not hold out at least a job in every part of the subscription, and an usurous profit upon every pound you devote to the necessities of your country. Do I demand of you, my fellow-placemen and brother pensioners, that you should sacrifice any part of your stipends to the public exigency? on the contrary, am I not daily increasing your emoluments and your numbers, in proportion as the country becomes unable to provide for you? Do I require of you, my latest and most zealous proselytes—of you, who have come over to me for the special purpose of supporting the war—a war on the success of which you solemnly protest that the salvation of Britain, and of civil society itself, depend—do I require of you that you should make a temporary sacrifice in the cause of human nature of the greater part of your private incomes? No, gentlemen; I scorn to take advantage of the eagerness of your zeal; and to prove that I think the sincerity of your zeal and attachment to me needs

no such test, I will make your interest co-operate with your principle; I will quarter many of you on the public supply, instead of calling on you to contribute to it, and while their whole thoughts are absorbed in patriotic apprehensions for their country, I will dextrously force upon others the favourite objects of the vanity or ambition of their lives.'

"Sir, I perceive that the House feel that I have made a speech more in character for the right honourable gentleman than the noble lord did—that I have supposed him simply to describe what he has been actually doing; but I am much mistaken if they do not, at the same time, think it rather indiscreet in the noble lord to have reminded us of such circumstances. Good God, Sir, that he should have thought it prudent to have forced this contrast upon our attention! that he should triumphantly remind us of every thing that shame should have withheld, and caution would have buried in oblivion! Will those who stood forth with a parade of disinterested patriotism, and vaunted of the sacrifices they had made, and the exposed situation they had chosen, in order the better to oppose the friends of Brissot in England—will they thank the noble lord for reminding us how soon these lofty professions dwindled into little jobbing pursuits for followers and dependants, as unfit to fill the offices procured for them, as the offices themselves were unfit to be created? Will the train of newly-titled alarmists, of supernumerary negotiators, of pensioned paymasters, agents, and commissaries, thank him for remarking to us how profitable their panic has been to themselves, and how expensive to their country? What a contrast, indeed, do we exhibit? What! in such an hour as this, at a moment pregnant with the national fate, when, pressing as the exigency may be, the hard task of squeezing the money from the pockets of an impoverished people, from the toil, the drudgery of the shivering poor, must make the most practised collector's heart ache while he tears it from them. Can it be that people of high rank, and professing high principles, that they or their families should seek to thrive on the spoils of misery, and fatten on the meals wrested from industrious poverty? Can it be that this should be the case with the very persons who state the unprecedented peril of the country as the sole cause of their being found in the ministerial ranks? The constitution is in danger, religion is in danger, the very existence of the nation itself is endangered; all personal and party considerations ought to vanish; the war must be supported by every possible exertion and by every possible sacrifice; the people must not murmur at their burdens, it is for their salvation—their all is at stake. The time is come when all honest and disinterested men should rally round the throne as round a standard;—for what, ye honest and disinterested men? To receive for your own private emolument a portion of those very taxes which they themselves wring from the people, on the pretence of saving them from the poverty and distress which you say the enemy would inflict, but which you take care no enemy shall be able to aggravate. Oh! shame! shame! is this a time for selfish intrigues and the little dirty traffic for lucre and emolument? Does it suit the honour of a gentleman to

ask at such a moment? Does it become the honesty of a minister to grant? Is it intended to confirm the pernicious doctrine so industriously propagated by many, that all public men are impostors, and that every politician has his price? Or even where there is no principle in the bosom, why does not prudence hint to the mercenary and the vain to abstain a while, at least, and wait the fitting of the times? Improvident impatience! Nay, even from those who seem to have no direct object of office or profit, what is the language which their actions speak? 'The throne is in danger! we will support the throne; but let us share the smiles of royalty.' 'The order of nobility is in danger! I will fight for nobility,' says the viscount, 'but my zeal would be greater if I were made an earl.' 'Rouse all the marquis within me,' exclaims the earl, 'and the peerage never turned forth a more undaunted champion in its cause than I shall prove.' 'Stain my green ribbon blue,' cries out the illustrious knight, 'and the fountain of honour will have a fast and faithful servant.' What are the people to think of our sincerity? What credit are they to give to our professions? Is this system to be persevered in? Is there nothing that whispers to that right honourable gentleman that the crisis is too big, that the times are too gigantic, to be ruled by the little hackneyed and everyday means of ordinary corruption? Or are we to believe that he has within himself a conscious feeling, that disqualifies him from rebuking the ill-timed selfishness of his new allies? Just previous, indeed, to the measure which bespoke the predetermination of our government for war, he deigned himself to accept a large sinecure place*—even he, who at the commencement of his political career lamented that he had fallen on times too good, too uncorrupt, to mark with effect the contrast of his own political disinterestedness, took to himself, at the period I mention, a great sinecure office, swelled by an additional pension, and both for life: the circumstances have never been commented on in parliament, though perhaps there are those who do not exactly think his public service overpaid by the remuneration. But if the acceptance of such a boon, at such a time, is to be regarded by him as a pledge and contract, that he is never in future to consider himself entitled to an unpurchased support on the subject of this war, or to resist the mercenary claims of any proselyte which his arguments or his example may create—inauspicious, indeed, was the moment in which his own disinterestedness was surprised by the bounty of his sovereign, and far more lamentable to his country the consequences of that gift, than advantageous to himself.

"Can we too seriously reflect, that in the contest in which we are engaged we have avowedly staked the being of the British empire? This *bellum internicinum*—as it was rashly named by those who advised, and into which I fear it has been more rashly converted by those who have conducted it—is to be prosecuted at every risk. If we fail, we fall; so circumstanced, the hour may come in which we may be compelled to look for a loftier spirit, a firmer

* The wardenship of the Cinque Ports, worth about £3,000 a year, which became vacant by the death of Lord Guildford, on 5th August, 1792. Mr Pitt was pressed by his Majesty to accept the office, in such gracious terms that it was impossible to decline.

energy, and a more enthusiastic attachment to the frame and form of our constitution, than ever yet has been demanded by our government from the people governed. Let the Minister take care, if such an hour should come, that we do not look in vain. Let him take care that the corruptions of the government shall not have lost it the public heart; that the example of selfishness in the few has not extinguished public spirit in the many. Let him not be too confident that his informers, his associations, his threats, his proclamations, or prosecutions, have driven from their post, or silenced the observations of those who honestly and lawfully watch the conduct of the King's servants in their stations, and of their own servants in this House, and who hold a corrupt collusion between them to be in itself an overthrow of the constitution. If we would have the people ready with one will, should the trying necessity arise, to risk and to sacrifice everything for the safety of the constitution and the independence of their country, let the high example come from those in high situations, and let it be as manifest as the danger, that no part of their subsistence has been wrung from them on a specious pretence, and applied, in fact, to increase the wages of corruption or swell the price of political apostasy.

"But if neither public interest nor political prudence sway the mind of the right honourable gentleman, I wonder that a feeling of personal pride has not, in some measure, deterred him from the selection he has made of the late objects of his patronage, his favour, and his confidence. What a compliment has he paid to all his former connexions and attachments! and in what a light has he held out their pretensions and abilities to the world! Possessing opportunity and sagacity to discern and estimate the claims of worth and talents, he has long been in a situation to attach to himself a numerous body of respectable friends, whose fortunate concurrence in his opinion has been both steady and uniform. Could he not find amongst them any persons fit for the many situations of trust and emolument which he has lately created, or worthy the honours which he has recently advised his forgiving sovereign to bestow? No; it seems that from this side of the House alone the country could be properly served, or the favours of the Crown duly repaid.*

"Was there ever, let me ask, a greater triumph than the list, I have run through, presents to those who yet remain on this side of the House, and who yet feel for the original credit of the party which these gentlemen have quitted; of that coalition party which has been so long and so vehemently traduced, both for its principles and its origin? Can it be that this execrable faction which, in the year 1784, was accused by the very man who then was, and still is minister, by all his adherents, and, through their arts even

* Mr Sheridan here recapitulated, and remarked on a number of favours, offices, and appointments, all bestowed on gentlemen lately in opposition; among these he was supposed to allude to Lord Loughborough, Lord Carlisle, Lord Porchester, Lord Hertford, Lord Malmsbury, Lord Yarmouth, Sir Peter Burrell, Sir Gilbert Elliot, Mr Sylvester Douglas, Mr Anstruther, Mr John Erskine, &c.

by their country at large, of the most rooted malignity to the constitution of this kingdom, of endeavouring to enslave the House of Commons, to disgrace the House of Lords, to make a cypher of the King, and to introduce a fourth estate, which was to throw the power and patronage of the whole empire into their hands and make their tyranny immortal—that this same party, who, at the time of the regency, were again accused, under the same authority, of being actuated by an insatiate love of office and emolument alone, and of basely preferring the views of their own selfish and rapacious ambition to every sentiment of loyalty, to the first privileges of the commons, and even to the internal peace of the country; can it be that this arraigned, proscribed, and reprobated party, so characterised and stigmatised by the right honourable gentleman and his followers, should have contained all the while within its ranks the only men who, when the trying hour of proof arrived, were fit to maintain the vigour of the constitution, assert the honour of the peerage, and prop the pillars of the throne? Oh! if this be so, what a lesson ought it to be to those who listen to the venal libels and calumnies of a ministerial press! What a warning to their credulity in future, when they recollect that these very gentlemen, to whom principally, it seems, the country is indebted for the detection of all the plots, conspiracies, and insurrections which so lately threatened the overthrow of the state, as well as for that salutary preventive against all future ills of the present war, that these very personages were not only never excepted in the outrageous libels which so long assailed the party to which they so lately belonged, but were many of them the marked and principal objects of their venom and malignity! Trusting that such a lesson will arise from reflecting on this fact, I quit the subject; adding only, that I should much regret the being supposed to impute any sinister or improper motives to the conduct of any of these gentlemen, or by any means to deny, that the emoluments and honours they have received were other than the consequence of their conversion to superior wisdom and integrity by the present Minister, and in no respect the allurements to that conversion; but still, Sir, I must take the freedom to observe, that in order to have prevented a doubt, in these mistrustful times, arising in the public mind upon the subject, from the odd concurrence of circumstances, and considering the pressure and magnitude of the plea, on which alone they have justified their separation from former and long cherished connexions, it would have been better both for their own credit, and as an example to the people, to have rendered it impossible even for malice to suggest any other inducement for the part they took, than a strong sense of public duty, and a clear and disinterested apprehension for the general safety.

"His Majesty laments the burdens that are to be laid on his people; and yet Ministers, lavish in courting, nay, purchasing, deserters, by the most shameful prostitution of the national treasure, I take it for granted, have been forced thus to look to the other side, because the nursery for statesmen, formed by the Secretary of State opposite to them, has not yet reared a sufficient number of plants for the necessary consumption; I dare say, that

though our Chiron * is slow in his march, he will improve as he goes on; and perhaps this year we shall be called upon for an additional sum of money to turn the nursery into a hot-bed. It is said, that if we were desirous of making peace, we have not the means. With whom do we treat? I answer, with the men that have the power of the French government in their hands. I never will disdain to treat with those on whom I make war; and, surely, no wise nation ought to persevere in the idle disdain of a negotiation with those that are a match for them in war. A right honourable gentleman opposite said, that what made him first think of a negotiation with America, was his looking at General Washington's army: he had looked at it on the right, on the left, on the centre, and, according to his curious phrase, he could not accommodate himself anywhere. The same was surely true of France: we had tried it on all sides; on the south, at Toulon; on the east, by the Rhine; on the north, by Flanders; on the west, by our spying-glasses, at St Malo; and we could nowhere be accommodated. But, I see, notwithstanding our fatal experiment, we are doomed to go on; the fatal determination is taken, and there is no rational hope that the good sense and spirit of this House will reverse the decree.

"Mr Sheridan proceeded to a review of the proceedings of the campaign, to show that Government had not displayed a single exertion becoming the dignity of the nation, or calculated either to maintain the splendour of our name and arms, or to accomplish the object of the war. There had been great misconduct on the part of those who had the power of directing our forces. No one vigorous exertion of prudence or wisdom had been made; however, Fortune, in some respects, had been favourable to us. We fortunately escaped hostilities with America: the risk, however, of such an event, was hereafter to be inquired into. For what purpose, he asked, was a large fleet kept in the Mediterranean after the capture of Toulon, while we wanted its assistance in other parts of the world; whilst a French frigate rode triumphant along the coast of America? And, after the engagement between this and an English frigate, in which our gallant captain (Courtenay) lost his life, what must have been the feelings of the crew to find that no vengeance had been taken for his death?

"Mr Sheridan showed, that even in the points of our attack, particularly at Toulon, Dunkirk, &c., &c., we had seen nothing but incapacity and blunder in the execution, as well as disaster in the event. These things must be the subject of parliamentary investigation. It was not enough that our precipitate retreat from Dunkirk† was hushed up and compromised between

* Chiron was known in mythology as a centaur, who taught mankind the use of plants and medicinal herbs; and was afterwards placed by Jupiter among the constellations, under the name of Sagittarius.

† In 1793, shortly after the battle of Neerwinden, a British army, under the command of the Duke of York, was sent out to Flanders to co-operate with the Austrians, under the Prince of Saxe Coburg; and the campaign opened favourably by the capture of Valenciennes, and the garrison of Condé, by the combined armies. By a fatal

the Master-general of the Ordnance and First Lord of the Admiralty, because one of them was brother to the minister. And, with respect to the transactions of Toulon, without stopping to inquire whether the destruction of the ships was consistent with the laws of war, he would demand, by whose orders the constitution of 1789 was first offered to the people, and by whose orders that offer was broken to them; and it must be a subject of inquiry how the noble Lord Hood, who had so freely taxed General O'Hara* with not keeping his word, had himself broken his word to the nation, about the strength and resistance of the place. The execution of the plan for the destruction of the ships, he would prove, was mismanaged in all that depended on the part of Lord Hood; for, at the Babel council of the combined armies, an offer was made to undertake the destruction of these ships, which appears to have been accepted;† and yet, such an inadequate force was given for the purpose, as to oblige Sir Sidney Smith to leave fifteen ships of the line unconsumed. He reproached them also for the expedition of Earl Moira, which was talked of so long, as to deliver over all the unhappy royalists on the coast to massacre. The expedition of Sir Charles Grey had been equally ruined by protraction; and, with respect to the whole of our naval campaign, it was in vain to enter into the details; for no man could assert, with truth, that we had anywhere presented a formidable aspect to the enemy. Of the conduct of the channel fleet he would not say one word; he was sure that the noble admiral‡ had exerted his utmost talents in the service, though they all knew the industrious pains that had been taken to throw unmerited reproach upon him. That our trade had not been pro-

policy, it was determined, in opposition to the advice of the Prince of Saxe Coburg, that the allied armies should act independently of each other; and the British forces, amounting to about 35,000 men, under the Duke of York, advanced to the attack of Dunkirk, which was then garrisoned by about 3,000 men only. The outposts were soon carried, and the siege regularly formed; but, in consequence of the delay of the English fleet, which was to have protected the army, the latter was dreadfully harassed by a destructive fire from the enemy's gun-boats, which were anchored so near shore as to enfilade the British encampment; and the French government were able to send an army of 50,000 men, under General Houchard, to the relief of the town. The British forces, in the face of superior numbers, persevered in the siege for a fortnight; but, after several engagements, in which they suffered considerable loss, they were compelled to retreat; and withdrew, by night, on the 8th September, leaving fifty-two pieces of cannon, with a large quantity of ammunition, in the hands of the enemy.

* The Commander-in-chief of the British forces at the siege of Toulon. He was taken prisoner in a sortie.

† The Spaniards, who co-operated with the British, had undertaken to burn the ships in the basin, but were obliged to abandon the attempt, which was renewed by Sir Sydney Smith, with a party of British seamen, but failed, from the incessant vollies of musketry from the shore, and the broadsides from the ships of war in the basin.

‡ Lord Howe.

tected, the fact of the channel being now, or very lately, at the mercy of a few French frigates, was a most glaring proof.*

"He thought it a duty he owed his constituents, to inquire into all these things, that it might appear what our objects were in pursuing the present war, and what were the objects of our allies. From some late transactions, it was very evident that our worthy allies had objects very different from what this country could possibly be supposed to have in view. He said, that he did not mean to propose any amendment; he should be inclined to support, however, any amendment that went to declare that this House ought to treat for a peace whenever an opportunity for that purpose presented itself."

After Mr Sheridan had concluded, Mr Fox moved an amendment to the address, recommending immediate negotiations for peace, without regard to the form of the French government. On a division, the original address was carried by 277 against 59.

Speech on moving for leave to bring in a bill to repeal an act of the last session of Parliament, suspending the Habeas Corpus Act, January 5, 1795.

In the early part of the year 1794, considerable alarm was felt in this country from the spread of political associations, of which the avowed object was to obtain a reform in parliament, but which were really actuated by the jacobinical principles which the French revolution was, at that time, diffusing throughout Europe.

Similar associations were formed also in Scotland, openly adopting the French Convention as their model; the members addressed each other as "citizen," formed themselves into committees of organisation, instruction, &c., and dated their proceedings, in imitation of the French revolutionists, from the first year of the British Convention, one and indivisible.

The two principal associations in England were, the "Society for Constitutional Information," and the "London Corresponding Society;" the latter consisting, in the early part of 1794, of upwards of thirty thousand members. These two societies, co-operating with each other, spread their seditious doctrines with great rapidity throughout the country, giving a species of authority to their opinions and resolutions, by issuing them officially signed by their respective secretaries, Thomas Hardy (a shoemaker), and Daniel

* Towards the end of the year 1793, the French fitted out a number of frigates, which cruised at the entrance of the channel, in small squadrons, and inflicted serious injuries on our trade and shipping. At the suggestion of Sir Edward Pellew, an independent squadron of frigates was formed, for the purpose of checking these cruisers, the general rendezvous being appointed at Falmouth; and this, it is said, was the origin of our western squadrons, which became the most popular service in the navy.—*Hughes.*

Adams (an under-clerk). By this means an immense revolutionary faction, numbering, after a short time, nearly half a million members, was regularly established, with district branches in every part of the country, and a central Board of Direction in London. The Government, considering the constitution in danger from this organised system of sedition, and having before their eyes the baneful results of the spread of similar principles in France, determined to crush the growing evil while yet they had the power; and, by their orders, the principal members of both societies were suddenly arrested in May; and, as it was considered that the papers seized at the same time, afforded sufficient evidence of treason, they were committed to the Tower. The papers having been referred for examination to a select committee of the House, the report was brought up on the 16th of May, when Mr Pitt moved for a bill to suspend the Habeas Corpus Act, which, after a strong opposition, passed into a law on the 23rd. A special commission was issued for the trial of the prisoners; and, true bills having been found against Hardy, Horne Tooke, Bonney, Kydd, Joyce, Wardell, Holcroft, Richter, Moore, Thelwall, Hodson, and Baxter, the trials began, on the 28th of October, with that of Thomas Hardy, who, with his fellow-prisoners, was charged with nine overt acts of treason. The trial lasted eight days, when a verdict of acquittal was returned; and, similar verdicts having been returned in the subsequent trials of Tooke and Thelwall, Government declined the further prosecution of the other prisoners. There is little doubt that, had the prisoners been indicted for sedition, they would have been convicted. As it was, the result of the prosecutions operated very beneficially, as it convinced the seditious that their proceedings were narrowly watched by Government.

On the 2nd of January, 1795, Mr Sheridan gave notice of his intention to move to bring in a bill to repeal the act by which the Habeas Corpus Act had been suspended, and on the 5th of January he moved accordingly.

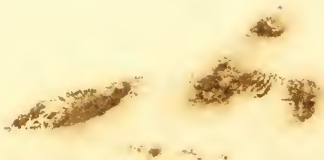
"Mr Sheridan said, that in addressing the House upon a subject of the most important consideration, he by no means wished to mix his own opinions with what he should lay before them, but simply to bring forward what was the real state of facts. He was perfectly well aware that, in the present calamitous situation of the country, it might have been expected that he should direct attention to the war rather than to any other topic; and, to bring forward another subject might appear to have a tendency to divert their attention from that which was the principal object of discussion. He was also aware that there was something risked by the motion which he was now to submit to the House, as it probably would not meet with the concurrence of all those who, on the first night of the session, had expressed their disapprobation of the war; and now, while an appearance of strength was gathering to the party in opposition of the present war, the effect might be to produce a degree of public discouragement, and to diminish the hopes which were entertained of bringing it to a speedy conclusion. But there were some questions of essential and deep importance, which no ground of

expedience, no consideration of a nature merely temporary, should induce him to forego. Such was the question which he should bring forward to-night. The opposers of the war, who had encountered so much unpopularity at its onset, would stand on the same ground on the present occasion, in supporting the principles which they had uniformly avowed, whatever they might hazard by the discussion, with respect to the appearance of the strength of their party. Those who had joined them in the opposition to war, would consider how far it was incumbent upon them to support the same principles. But he should affirm that the present was the very question which those who wished for peace were bound to support. The first consideration which had been held out by the Chancellor of the Exchequer with respect to the necessity of the war, was the internal situation of the country. A view of that situation was certainly in every respect the most important. Whether we now looked to the continuance of the war, or to the event of peace, it was of consequence to ascertain whether the subjects of this country were actuated by a loyal attachment to the King and an unshaken zeal for the constitution, or were under the influence of opposite sentiments. The right honourable gentleman (Mr Pitt) had asked, If we should make peace, what would be the consequence of the inundation of French principles into this country? He, for one, did not dread the consequence. But, the right honourable gentleman had rightly taken his ground, if he supposed the people of England actuated by seditious and treasonable sentiments, and ready on the first opportunity to sacrifice all the blessings which they enjoyed from the admirable form of their constitution, and madly to destroy themselves. This was the point on which he was prepared to meet him. The question was not, whether the Habeas Corpus should remain suspended till February, though an honourable gentleman (Mr Dundas) had thought proper to declare, by anticipation, that, in the present situation of things, he should be of opinion, that the suspension ought to be renewed;* if he (Mr Sheridan) thought that there remained no ground for suspending it, no consideration of the shortness of time would induce him to withdraw his motion; he would say, with the father of the right honourable gentleman (the Earl of Chatham), who, when he was asked whether he would submit to a tyranny of forty days, answered, 'No; he would not consent that the people of England should be fettered and shackled even for an hour:' but the question now was—whether the Habeas Corpus should remain suspended for ever? Another consideration connected with this motion was, whether the reverence and respect for the decision of juries, so intimately interwoven with the principles of the British constitution, and hitherto so sacredly observed, should or should not be eradicated from the minds of the people of England? In conducting the present discussion, he should argue from circumstances as they really existed. He would appeal to the gentlemen on the other side with respect to the situation in which this

* An Act was passed, later in January, for its further suspension.

country was now placed, and he would ask them, whether they would not accept of the compromise that the sentiments, numbers, and force of the societies, who had been held up as dangerous to the constitution, should remain exactly as they were at present? But there was no situation of things in which those gentlemen were not provided with an answer. If it was urged that the designs of those societies had been checked, they would ask, whether they ought to withdraw the security at the moment they had succeeded in repelling the danger? If the influence of the societies was said to be increased, they would contend that the force which it had been found necessary to oppose to an inferior danger, became still more indispensable when the danger was increased. If they were called upon in a time of war, they would allege, that was not the proper time to judge of the degree of power to be granted to the executive government; if, during the interval of peace, they would enlarge upon the necessity of guarding against the consequences of an intercourse with the daring republicans of France, there was no situation in which they would not be provided with some argument for suspending this chief bulwark of the rights and liberties of Englishmen. The suspension would be justified, not merely as a guard against the crime of treason, but, according to the new phrase, against any disposition to moral guilt which might be productive of dangers. On such pretences, would the suspicion be justified, and the act itself never again restored? He would remind gentlemen of the grounds on which the suspension had been voted: the preamble of the act stated, that, 'Whereas a traitorous and detestable conspiracy has been formed for subverting the existing laws and constitution, and for introducing the system of anarchy and confusion which has so fatally prevailed in France,' &c.

"He now came to facts. Did this traitorous, detestable conspiracy exist, if, indeed, it had ever existed at all? It would be necessary to prove, not only that it once existed, but that the same danger still continued. Were they prepared to go to the length of these assertions? He would not shrink from what he had said on a former occasion, that he considered Ministers as the sole fabricators of these plots. What he had then declared from strong surmise and deep suspicion, he was now enabled to repeat from the evidence of facts. He had, at his back, the verdicts of repeated juries, who had negatived the existence of any such plot. But the opinion of juries had been lately treated in such a manner, that he was almost afraid to quote their authority; but he would remind a learned gentleman (Sir John Mitford) that for language much less unconstitutional than he had employed, with respect to the verdicts of these juries, a learned sergeant had formerly been committed to prison by the House of Commons. That learned gentleman had told them, that the acquittal of a jury did not declare the man innocent, it only exempted him from being tried again upon the same charge. He had always understood, that it was a maxim of the law of England, that every man was presumed to be innocent till he was found guilty. But, so far from this being the case, he was now told, that not even the acquittal of a jury established his



innocence, or restored him to his former place in society. Much stress was laid upon the decision, of a grand jury. He did not rest much upon that, more especially as he understood that some degree of management had been employed in forming that grand jury. Letters were sent round, one of which he now held in his hand, dispensing with the attendance of some who might otherwise have sat on that grand jury; and, so far as that went, had the effect of packing them. But he could not certainly regard the authority of any grand jury as of much weight, if, after the prisoner was put upon his trial, by their finding a bill against him, he was still, by the liberal spirit of the law of England, to be considered innocent till he was found guilty by a verdict of his peers. An honourable gentleman (Mr Wyndham) had gone even further than the learned character to whom he had alluded; he had thrown down the gauntlet to his right honourable friend (Mr Fox). How far it was prudent or proper in that gentleman so to do, he would not take upon him to determine, especially when he recollected that, on a former occasion, he had declared that he would not give up the title of his friend till his right honourable friend had first given him a hint for that purpose. The neighbourhood into which the honourable gentleman had lately got, had, perhaps, impaired his memory. He had not waited for the hint; he had now renounced the title. Nor was such a hint to be expected from his right honourable friend, by those who knew with what strength of attachment he clung to all those of whom he had been accustomed to think favourably, and how unwilling he was to give up any who had once formed claims upon his friendship. Now, however, that the honourable gentleman had voluntarily disclaimed the connexion, he had no hesitation to declare that he should henceforth meet him on the ground of fair and avowed hostility. That honourable gentleman, next to another person, had been the principal instrument of bringing the country into the calamitous situation in which it was now placed. He trusted that he had abilities to extricate it from the difficuities of that situation. At any rate, he knew that he had boldness to wait the responsibility which would ultimately attach to all the authors of the present war. Except, indeed, there was something in the support of the war that corrupted and degraded the human heart, he should have thought that the honourable gentleman would have been the last of all men to apply to persons acquitted by juries of their country, the opprobious epithet of acquitted felons. There might have been some ground for this epithet, if those persons had owed their escape to any flaw in the indictment, or to any deficiency of technical forms; it might then have been urged, that they were not entitled, by the verdict of a jury, to a regeneration of character, and were still to be considered in the light in which the honourable gentleman had placed them—as men branded with guilt, and outcasts from society. He would not say that every man acquitted was therefore innocent; there could be no rule of that sort without an exception; a criminal might owe his acquittal to a flaw in the indictment, or a failure of the evidence. It had been stated the other night that a person might be charged with murder who had only been guilty of house-

breaking, and, because he was not found guilty upon the first charge, was he therefore to be considered as a pure and honourable character? But did the men who had lately been acquitted stand in that situation? If there was any case in which the verdict of a jury went completely to establish the innocence of the party accused, it ought to be with respect to the charge of high treason. That charge, it was to be recollected, came with the highest authority, and with a degree of influence which it was difficult for any individual to resist. It was to be recollected, too, that, with respect to the crime of high treason, the country itself was both party and judge, since he who conspires against the life of the King, conspires at the same time against the peace of the country.

"With respect to the charge of levying war, it was possible that the party accused might escape from the incompetency of the evidence; but with respect to the charge of compassing and imagining the King's death, the intention itself constituted the crime: and if the jury had in their own minds a conviction of the criminal intention, and there was sufficient proof of the overt act, they were bound to find their verdict guilty. Mr Sheridan said, he he would now put it, whether, in the course of the late trials, anything that could have been brought forward against the prisoners was omitted, from any want of time or attention? He had heard, indeed, a gentleman (the Solicitor-general) say, that the jury, if they had known all that he did, would have found their verdict differently. But he conceived that he must have been asleep at the time, otherwise it must be inferred that he had neglected to state to the jury all that he knew, and thereby shown himself disqualified for the place which he held—a confession which he surely would not wish to make to the gentlemen along with whom he sat, far less to those on the other side. He could not mean that anything further had since come to his knowledge, since he had himself admitted that the effect of those acquittals went to prevent the parties from being again tried on the same charge. No pains had surely been spared to bring those persons to a conviction, if they had been really guilty. A report of that house was brought forward, containing almost everything that was afterwards brought out in evidence, and that was followed by the decision of the grand jury. Neither could it be contended, that there was any want of time: some of the persons tried were taken up in May; the six months previous to their trial were employed in collecting and arranging evidence; a task in which many respectable persons, urged by sense of what they had conceived to be their duty to their country, were induced to take an active part. Neither was there any deficiency of legal ability; twelve gentlemen of the greatest professional eminence, whose talents were adequate to any cause, were retained on the side of the Crown, at an expense of upwards of £8,000, independently of the bill of the solicitor to the treasury.*

* Mr Sheridan here read the list of the names of the counsel for the prosecution—Sir John Scott (the Attorney-general, afterwards Lord Eldon), Sir John Mitford (the Solicitor-general), Mr Anstruther, Mr Sergeant Adair, Mr Bearcroft, Messrs Bower, Law, and Garrow, King's counsel; Mr Wood, Mr Baldwin, and Mr Perceval.

"The Attorney-general (continued he) assures me that he exerted his abilities gratuitously; an example which, I trust, will be imitated, and for which I give him credit, though I cannot approve of his doctrines of high treason—doctrines which, if they were once to be admitted, no man could, in my opinion, be safe: nor yet of the detestable evidence of spies, so much resorted to in the conduct of the prosecution. Such an array could only, indeed, have been encountered by the abilities and eloquence of my honourable friend (Mr Erskine), who, by his conduct on that occasion, acquired the highest honour, but to whom all professional honour was become superfluous; and therefore he may deem it fortunate that he was associated with Mr Gibbs, who deservedly comes in for a share of credit in the transaction. No exertion less vigorous, no abilities less splendid, would have been sufficient to withstand the weight of authority and of evidence with which it was attempted to crush and overwhelm the prisoners. But, perhaps, the gentlemen engaged in the prosecution will contend that they did not bring a sufficient number of witnesses; that they were willing to spare the trouble of persons engaged in different occupations, and residing in distant parts of the country. How far this is the case (said Mr Sheridan) will appear by a paper from which I shall now read the list of the witnesses summoned in the case of Mr Joyce, who was never tried.*

"There was one circumstance to be noticed: many of those men were kept in prison for a considerable time, till they were wanted for that purpose; there they were cooped up, half witnesses and half principals, till the day of trial; and yet, to the men who had been placed in this situation, many of whom had lost their business and been hurt in their character, not the smallest compensation had been given; he would not say, because they had failed in giving evidence which might have been favourable to the views of the prosecution; some of them had been sent back to Sheffield, with £3 to defray their expenses. With regard to the manner in which the proceedings had been conducted, at least, no labour had been spared. The first speech on the trials took up no less a space than nine hours. Had he been in the situation of a juryman, the very circumstance of an Attorney-general taking nine hours to tell him of an overt act of high treason, would have been a reason why he should have given as his opinion, that he could not believe it, and that it could not possibly be true. The whole procedure, on the part of the prosecution, was a piece of delicate clock-work, a sort of filigree net, too slight to hold a robust traitor, and yet so contrived as to let all the lesser cases of libel and sedition escape. The very intricacy and labour of the proceeding was, to his mind, the most satisfactory testimony that the case could not be supported on the grounds of substantial evidence and constitutional principles. If he was asked, did there not appear, from these trials, instances of sedition? he had no hesitation to say, that they exhibited in-

* Mr Sheridan here read an abstract of the list of witnesses, amounting in all to 207 persons.

stances of many gross and scandalous libels. He was ready to admit there were in the societies mischievous men, intent on mischievous purposes. There were others actuated by enthusiasm, whom he could not consider in the same light, because it was that sort of enthusiasm which had actuated men of the purest minds. As to the phrases 'convention,' &c., in which they had affected an imitation and approbation of the proceedings of the French, the worst that could be said of them was, that they were contemptibly foolish.

" He had attended the trials, he said, from a principle of duty. He was of opinion that every man who loved the constitution, and who thought that it was endangered by false alarms, would feel it incumbent, on such an occasion, to attend trials which he considered as originating from ministerial artifice ; and to watch the conduct of the crown lawyers and of the judges, in order to avert those calamities from the country in which, at former times, it had been involved, to prevent that most dreadful of all wars—a war of plots and conspiracies ; wars in which the purest blood had been shed by the most destructive of all weapons—the perjured tongues of spies and informers. That there was no real danger, appeared from the declaration of the Chief Justice Eyre, who, in summing up on one of the trials, stated that it was an ostentatious and boasting conspiracy; and that it was much in favour of the accused, that they had neither men, money, nor zeal, to effect the purposes with which they were charged. On the first trial one pike was produced, that was afterwards withdrawn from mere shame. A formidable instrument was talked of, to be employed against the cavalry; it appeared, upon evidence, to be a tee-totum in a window at Sheffield. There was a camp in a back shop, an arsenal provided with nine muskets, and an exchequer containing nine pounds and one bad shilling ; all to be directed against the whole armed force and established government of Great Britain. Mr Sheridan said that he, in the first instance, had shown the most obstinate incredulity with respect to all the rumours of a plot. He endeavoured to call to mind whether the present ministry had, in any former instance, availed themselves of a similar artifice. He recollected that in the year 1783, at the period when the coalition took place, they represented those who were engaged in that measure as setting up a fourth party in the state, as wishing to supersede the authority of the King and to destroy the constitution, and had actually persuaded many well-meaning people at the time to be of that opinion, and to regard the authors of the measure as enemies to their country, whose destruction was necessary for the preservation of the established government. He recollected, too, that the very men who had set up the coalition were now in the cabinet, and that the charge brought against them must therefore have been false, and an instance of successful deception. He was more confirmed in his persuasion of the trick when he looked to the conduct of the right honourable gentleman (Mr Pitt), who had adopted the policy of keeping open the door of reform that he might get himself out by it, and whose system it had uniformly been, on that question, to do just as

much as might nourish hope, and yet discourage effort. He recollected that the Society of the Friends of the People* had been constituted of a hundred persons, of whose characters it would not become him to speak, since he himself had the honour to be one of the number. That society had, at its first formation, been represented as more pernicious than any of the others; they had been held out, both in that and in the other House, as men whose existence was incompatible with the safety of the constitution. Their first institution had been followed by a royal proclamation, in order to secure the country from the infection of their principles. In what light had that society been held out on the late trials? That very society had been represented as the saviours of the country, as the standards of political orthodoxy; and it had been represented as the blackest aggravation of the guilt of other societies, that they had not suffered themselves to be guided by them; that they had not implicitly adopted their principles, or concurred in their proceedings. This he could not help regarding as the second instance of successful deception. The proclamation afterwards issued, previous to the calling out of the militia and the assembling of Parliament, put into the mouth of his Majesty an expression which was not true—namely, that there existed insurrections in the country. It might be urged, that at that time there was great appearance of danger, and that it was better to prevent the meditated mischief than to wait for its arrival. In such a case Ministers, too, would have done better to have taken the responsibility to themselves, and applied to Parliament for a bill of indemnity. He had, on a former occasion, taken notice of all the arts which were at that time employed to propagate alarm; of the Duke of Richmond throwing himself into the Tower in the middle of the night; of the mail-coach being retarded, and carrying with it the most dismal reports of the state of the metropolis, so that every person who arrived in a post-chaise expected to find that all London was in a flame. He had then surmised that all this was the effect of mere political artifice; he now found his suspicion con-

* The society of "The Friends of the People" was one of several political societies, which were formed in the year 1792, for the purpose of procuring parliamentary reform. It numbered among its members, many members of parliament and influential persons, and the principles of the society were the same which Mr Pitt had himself formerly supported. In April, Mr Charles Grey, a member of the society, was deputed to further its object by moving, in his place in parliament, an inquiry into the state of the representation, as preliminary to reform. Mr Pitt earnestly opposed the object of Mr Grey's notice of motion, candidly avowing that his opinions had changed on the subject, and declaring that, in the then excited state of society, that was not the proper season for experiments which might endanger the constitution. This opposition of the minister was followed, on the 21st May, by a royal proclamation for the prevention of seditious meetings and publications, calling on the magistrates to suppress them, and exhorting the people to obedience to the laws. On the 26th May, an address was moved in the Commons in approbation and support of the proclamation (which was declared by Mr Pitt to have been levelled against the propagation of the seditious doctrines contained in Paine's "Rights of Man"), and, although warmly opposed by Mr Grey and Mr Fox, was carried without a division.

firmed by facts. During the course of the trials, he had heard the evidence of the spies of the government, no part of which went to sanction the alarm which had been so industriously propagated. It followed, therefore, either that Ministers were deceived by their own spies, and had thereby shown themselves unfit for the situation which they held, or that they had acted upon an alarm which they did not feel, to answer the infamous purposes of their own ambition, and to delude the people into a wicked and a ruinous war. At the time, everybody admitted that the measures of ministry were extraordinary, but something, they said, must come out. Papers notoriously in the pay of ministers, even took upon them to mention the particulars of the plot, and to name the persons concerned. He had then moved for a committee of the House to inquire into the subject; his motion was negatived because ministers knew that no such plot had ever existed. If a government wanted a plot, plots, like other commodities, would be brought to the market. Had his motion been adopted when it was first proposed, it would have then refuted the libel on the character of the people of England. The right honourable gentleman, in a more advanced stage of the business, had come forward with a motion for a secret committee. It did not become him to say that the members who composed that committee were not highly respectable: they were chosen by ballot, and therefore, no doubt, perfectly independent; but it was well known that every such election by ballot was determined by previous agreement; and he had himself previously read the names of thirteen or fourteen members who were to be in that committee; and he must say, that it was a circumstance of suspicion that they resorted to this mode of choosing a secret committee, rather than that of naming the members over the table, as had been done on another important occasion. A report was presented to that committee, cut and dry, and by some of them, he would venture to say, adopted without much examination. In speaking of the gentlemen who composed that committee, he felt some degree of delicacy; they were not now all here; they were so much alarmed that they did not consider that house as a place of sufficient security, and had taken refuge in the upper house. A coronet, the reward of their seasonable apprehensions, would, they thought, be most likely to secure the head of the owner from future danger. While the committee were sitting upon this report, which had been in preparation five or six months, two notes were sent—one to his right hon. friend (Mr Fox), and another to him, informing them that something important was to take place in the House of Commons. This was all the intimation which was thought necessary to precede a suspension of the chief bulwark of the rights and liberties of Englishmen. Upon hearing only a moiety of the report from the Minister, the suspension of the Habeas Corpus Act was proposed. Seventeen divisions had on that occasion taken place on his side of the House; and he should ever regard the share which he had taken in that measure as the most meritorious part of his parliamentary conduct. In the House of Lords the business was not conducted so hastily; their lordships were presented with pikes, with drawings, with

male and female screws; their noble natures were not so easily to be roused; it was necessary that they should be presented with some ocular demonstration of the danger:—

"Segnius irritant animos dimissa per aurem,
Quam quæ sunt oculis subjecta fidelibus."

He was almost ashamed to say, that the suspension of the Habeas Corpus Act was not a matter of slight or trivial consideration."

[Mr Sheridan here quoted the opinion of Sir Edward Coke on the importance of the Habeas Corpus, which concludes "that without the enjoyment of this privilege we are no longer anything more than bondsmen. There remains no distinction between the freeman and the slave—the living and the dead." He then proceeded to quote the more recent opinions of Judge Blackstone, in the following extract from his chapter on the rights of persons, section ii. :—"Of great importance to the public is the preservation of this personal liberty, for if once it were left in the power of any of the highest magistrates to imprison arbitrarily whomever he or his officers thought proper (as in France it is daily practised by the Crown), there would soon be an end of all other rights and immunities. Some have thought that unjust attacks, even upon life or property, at the arbitrary will of the magistrate, are less dangerous to the commonwealth than such as are made upon the personal liberty of the subject. To bereave a man of life, or by violence to confiscate his estate without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole kingdom; but confinement of the person, by secretly hurrying him to gaol, where his sufferings are unknown or forgotten, is a less striking, and therefore a more dangerous, engine of arbitrary government. And yet sometimes, when the state is in real danger, even this may be a necessary measure. But the happiness of our constitution is, that it is not left to the executive power to determine when the danger of the state is so great as to render this measure expedient; for it is the parliament only, or legislative power, that whenever it sees proper can authorise the Crown, by suspending the Habeas Corpus Act for a short and limited time, to imprison suspected persons without giving any reason for so doing, as the senate of Rome was wont to have recourse to a dictator, a magistrate of absolute authority, when they judged the republic in any imminent danger. The decree of the senate, which usually preceded the nomination of this magistrate, *dent operam consules, ne quid respublica detrimenti capiat*, was called the *senatus consultum ultimæ necessitatis*. In like manner this experiment ought only to be tried in cases of extreme emergency; and in these the nation parts with its liberty for a while, in order to preserve it for ever."]

"If the position of this famous lawyer be true, if a suspension of the Habeas Corpus can be compared to nothing but a measure which suspends the whole of the constitution, it ought surely only to take place in cases of the most urgent and absolute necessity. He would ask whether the present was a

case of such extreme emergency? If any man believed that the people of this country were infected with treasonable principles, and disposed to overturn the Government, he might then be justified in holding such an opinion; but if any man believed that the characteristic feature of the English nation was a sober, settled, and steady attachment to the constitution, it was incumbent on him to call for an immediate repeal of the act suspending the Habeas Corpus. Such was the opinion which had been confirmed by repeated verdicts of a jury—verdicts which went completely to do away the idea of any conspiracy having ever existed in the country. He, for one, would not wait till ministers should exercise their ingenuity in the fabrication of new plots, or should have time to propagate fresh alarms; he would call upon them immediately to restore to the people those rights, without which they could neither respect themselves nor the government under which they lived.

"I feel myself, (said Mr Sheridan) as if contending for a melancholy truth with Ministers, when I assure them that such is the state of the country, and such is the loyalty of the people, that they are firmly attached to the constitution, and disposed quietly to enjoy its blessings, without any idea of either attempting the person of his Majesty, or cutting the throats of one another. I shall hear then, not of a plot, but of the existence of a propensity to moral guilt, as justifying the continuance of the suspension of the Habeas Corpus. I will not say that there have been no instances of sedition, but I will affirm even that the evidence of these appears in so questionable a shape as ought to excite your suspicion. It is supported by a system of spies and informers—a system which has been carried to a greater extent under the present administration than in any former period of the history of the country. I will not say that there is no government in Europe which does not stand in need of the assistance of spies; but I will affirm that the government which avails itself of such support does not exist for the happiness of the people. It is a system which is calculated to engender suspicion and to beget hostility; it not only destroys all confidence between man and man, but between the governors and the governed; where it does not find sedition it creates it. It resembles in its operation the conduct of the father of all spies and informers, the devil, who introduced himself into Paradise, not only to inform his own pandemonium of the state of that region, but to deceive and betray the inhabitants. The spy, in order to avoid suspicion, is obliged to assume an appearance of zeal and activity; he is the first to disseminate the doctrines of sedition, or to countenance the designs of violence; he deludes the weak by the speciousness of his arguments, and inflames the turbulent by the fury of his zeal. It must have made a man's heart burn to hear the sort of evidence brought forward by these spies on the late trials. A wretch of the name of Lynam said, that, in his capacity of delegate to one of the societies, he had incurred suspicion, had been tried by the other delegates, and honourably acquitted. The counsel for the prosecution could hear such a declaration with unblushing countenances. By what

means had he been acquitted, but by pretences of superior zeal and more furious exertion? I wish the honourable gentleman who called the persons who had been tried acquitted felons, had been present when such witnesses were examined against them; I wish he had been present when the Chief Baron (Macdonald) addressed Mr Thelwall, not as an acquitted felon, but as having obtained a verdict which was honourable to his character, and exhorted him, in a tone of the utmost gentleness, to employ his talents in future for purposes useful to his country. The manner in which that address was made, was fit and becoming the character of the judge by whom it was delivered, as well as respectful to the person to whom it was directed. Of whatever indiscretion the persons who had been tried had been guilty, it will not be disputed by those who have attended to their case, that they have feeling hearts, that they are alive to every sense of indignity, and that they must have been deeply wounded by the opprobrious epithet applied to them by the honourable gentleman. I trust this is sufficient to induce him to make the only reparation now in his power, by the speediest recantation of his hasty and ill-judged expression. There was another witness of the name of Taylor, not an acquitted but a convicted felon, who had been tried for a crime into the moral demerit of which I will not enter, but which had been attended with the aggravation of perjury; but sentenced only to a slight punishment, on account, as was alleged, of some favourable circumstances in his case, though, upon my word, I could find none, except that he had assisted to hang his brother spy (Watts); yet this man was thought a proper character to be brought forward as an evidence in a court of justice, and allowed to hunt after the blood of Englishmen. If Ministry had been duped and deluded by their spies, ought they not to admit the deception that had been played upon them? But, (said Mr Sheridan,) I can suppose the case of a haughty and stiff-necked minister, who never mixed in a popular assembly, who had therefore no common feeling with the mass of the people, no knowledge of the mode in which their intercourse is conducted, who was not a month in the ranks in this House before he was raised to the first situation, and, though on a footing of equality with any other member, elevated with the idea of fancied superiority—such a minister can have no communication with the people of England, except through the medium of spies and informers; he is unacquainted with the mode in which their sentiments are expressed, and cannot make allowance for the language of toasts and resolutions adopted in an unguarded and convivial hour. Such a minister, if he lose their confidence, will bribe their hate; if he disgust them by arbitrary measures, he will not leave them till they are completely bound and shackled; above all, he will gratify the vindictive resentment of apostasy by prosecuting all those who dare to espouse the cause which he has betrayed; and he will not desist from the gratification of his malignant propensities and the prosecution of his arbitrary schemes, till he has buried in one grave the peace, the happiness, the glory, and the inde-

pendence of England.* Such a minister must be disqualified to judge of the real state of the country, and must be eternally the dupe of those vile spies whose interest it is to deceive him, as well as to betray others. In what country, or from what quarter of the community, are we to apprehend the effects of those principles of insubordination with which we have been so often threatened? The characteristic feature of the English nation is entirely different; they testify, on every occasion, the utmost respect for superiority (I am sorry to use the phrase), wherever the advantages of rank or fortune are exercised by those who enjoy them with any tolerable decency or regard to the welfare of their dependants. What nobleman or gentleman finds in his tenants or servants, so long as he treats them with propriety and kindness, a hostile and envious disposition? What merchant or great manufacturer finds in those whom he employs, so long as he treats them well, a sullen and uncomplying temper, instead of a prompt and cheerful obedience? This tendency to insubordination forms no part of the temper or character of the people; the contrary disposition is even carried to an extreme. If I am asked whether there is any danger in the present moment, I say, Yes. But it is not a danger of that sort which is to be remedied by suspending the rights, or abridging the privileges of the people. The danger arises from a contempt being produced among the lower orders, of all public men and all public principles.

"A circumstance occurs to me, which took place during the late trials, where the 'Friends of the People' were praised from the bench. When one of the Sheffield witnesses (Broomhead) was asked why his society declined communicating with the 'Friends of the People;' he answered that he would tell them very plainly, that they did not believe them to be honest; that there were several of them members of parliament; that they had some of them been in place; and that they conceived the ins and the outs, however they might vary in their profession, to be actuated by the same motives of interest. I, who might be as little implicated in such a charge as any man, felt rebuked and subdued by the answer. What is it that tends to produce this contempt of public men? The conduct of those who ought to hold out an example of public principle. I heard an honourable gentleman (Mr Wyndham) the other day—and on this subject I will pursue him with professed and unabating hostility—complain of the indifference and languor of the country in the present contest, and call upon them to greater

* Mr Pitt, without passing through any subordinate offices, became Chancellor of the Exchequer and leader of the House of Commons, at the early age of twenty-three. Although Sheridan always reprobated Pitt as a minister, he acknowledged the highest respect for him as a man. In 1802, he thus spoke of him: "No man admires his splendid talents more than I do. If ever there was a man formed and fitted by nature, to benefit his country and to give it lustre, he is such a man. He has no low, little, mean, petty vices. He has too much good sense, taste, and talent, to set his mind upon ribands, stars, titles, and other appendages, and idols of rank. He is of a nature not at all suited to be the creature or tool of any court."

greater displays of vigour and exertion, while at the same time he affirmed, that no man in the country felt any distress from the pressure and calamities of war. Will he say this to the starving manufacturers of Norwich? Will he say it to the slaving poor of the metropolis, obliged to purchase a loaf at nine-pence, and unable to supply themselves with coals at this inclement season, from the enormous price of that necessary article? Will he say it to the landholders, whose property, since the commencement of the war, has been reduced half its value? What can this language of the honourable gentleman mean, except he means to drive the great body of the people to desperation? When I heard the honourable gentleman call upon the country for increased exertions, I concluded that he would have proposed to throw in his salary to the aid of the public fund, and to live contented on his own splendid income. I supposed he would have persuaded his right honourable friend (Mr Pitt) to relinquish the revenue which he derives from the Cinque Ports, and to live on the £6000 a year attached to his other appointment; that he would have persuaded another honourable gentleman (Mr Dundas) to give up one of his numerous salaries;* and a noble marquis, in another House, to give up some of the emolument which he derives from the tellership of the Exchequer, which would this year amount to £15,000. As the noble marquis, on a former occasion, professed himself ready to abandon part of those emoluments, and take the office at a more moderate salary, he had now an excellent opportunity to prove the sincerity of his declaration. I expected all this, and that they would not have failed to assist their own arguments by the operation of their generosity. The honourable gentleman shakes his head, as if I had said something which I did not mean, or would not stand by. When formerly, in conjunction with him and others, I attacked the corruption of Ministers, I thought I was speaking the sentiments of men who were sincere in recommending the doctrine of public economy, and not persons secretly bargaining for a share of the wages of corruption. Little did I think that the opposition which they then expressed, was only an envious admiration of the honours and emoluments of Ministers, and an impatient desire of participation; little did I conceive that the first act of a noble person (Duke of Portland) would have been to arrest from a gallant man a token of honour, which he had merited by his public services; a man, to whom, indeed, that token could add no honour, but who might wish to introduce into his own profession such a badge of distinction. In Ireland, ever since the period of their arrangement, they have experienced the utmost difficulty and embarrassment, from a dispute which has subsisted about patronage, and which has at last been compromised; how far honourably, I will leave to those who are best acquainted with the transactions to determine. In the present war, Ministers have been obliged to have recourse to allies both at home and abroad; both have been

* Mr Dundas was Treasurer of the Navy, and Secretary of State for the War Department.

procured by the same means—bargain and subsidy. Among the members of the present cabinet there subsists a sort of Dutch amity, and they hate one another more cordially then even they do us who are in opposition to their measures. The question is, Has the Duke of Portland a majority in the cabinet? No; Mr Pitt constrains him by an additional vote. It was curious to observe the changes which had lately taken place; from a lord privy seal, to be first lord of the Admiralty, and *vice versa;* from president of the council, to be Lord-lieutenant of Ireland; and from the Lord-lieutenant of Ireland, to be Master of the Horse. A noble earl (Mansfield) came at first into the cabinet without any emolument; I was at first disposed to give him credit for his disinterestedness; but whether it was conceived by his colleagues to be a foolish thing, or that it might operate as a bad example, he was soon induced to accept the situation of president of the council, with a large salary. While all Europe is in a flame, they seem to be engaged at boys' play; to be scrambling for places and pensions, for ribands and titles, and amusing themselves with puss in the corner in the cabinet room. When such is the picture of the conduct of public men, I am not surprised at the declaration of the witness from Sheffield, that he gives no man of that description credit for being honest. Willingly would I throw a veil over such transactions for the sake of the country, were it possible either to conceal their existence, or to extenuate their disgrace. Mr Sheridan said that he had now stated almost all that he had to say: there was nothing, in his mind, which would be more calculated to remove the danger of sedition than to abandon the system of corruption which now prevailed. To reform the conduct of government, and to correct abuses, would be the surest way to remedy discontent and render a further suspension of the Habeas Corpus unnecessary. He proceeded to state that many of the acts of the societies, which had excited so much alarm, were only imitations of what had been done by the societies in 1780.* If the minister at that time had been disposed to prosecute, he might have made out a much better case of treason than had been brought forward by the present ministers. Was the memorable expression of the illustrious Earl of Chatham forgotten, 'that he rejoiced that America had resisted?'† Could none of the members recollect the strong language adopted by Mr Burke on the same occasion; and the sentiments that had been avowed in the House by the opposers of that war, 'that they wept over the fall of Montgomery,‡ and did not exult in the desertion of Arnold?'§ He produced a paper with the

* Mr Sheridan alluded to the riots in London, caused by Lord George Gordon, at the head of the Protestant Association, a society whose object was to prevent a repeal of the penal laws against Roman Catholics.

† See Lord Chatham's Speeches, page 27.

‡ General Montgomery, one of the American commanders, shot at the unsuccessful siege of Quebec, 1775.

§ General Arnold, who, after having been promoted by Congress, for his valour and ability, deserted to the English in 1780, and became a brigadier-general in the British service.

inscription, 'Lenox, the friend to equality,' which, had the then Ministers been disposed to prosecute, contained matter more inflammatory than any paper that had been brought forward on the late trials. If approbation of the progress of the enemy, implied by toasts and resolutions; if an unqualified claim of universal representations; if disrespectful expressions, such as 'What care I for the King's birth-day?' were to be construed as treasonable matter, all these would be found to apply to the associations in 1780, in a greater degree than to the present societies. Nay, a convention of the same nature with that which these societies had been charged as having conspired to hold, was then actually held. These men only trod in the same path in which they had seen others go before them, not only without impeachment but without reproach.* If (said Mr Sheridan) we make a boast of equal laws, if these men are to be considered as guilty of high treason, let us have some retrospective hanging, and, whatever in that case may happen to me, his Majesty will at least derive some benefit, since he will thereby get rid of a majority of his present cabinet. Mr Sheridan said, that when he recollected that his speaking and writing might have been instrumental in inducing those men to espouse the views which they had adopted, he could not separate his own cause from theirs, and he did not know what other men's consciences were made of, who could prosecute, and even bring to condign punishment and infamy, persons who had been guilty of no other crime than having taken up the same side of the question of which they themselves had formerly been the advocates and supporters. He then reprobated the arguments drawn from the differences of times, and the necessity of terrible examples—an argument to be found in everybody's mouth, and which he contended to be false and mischievous. It was re-echoed from every quarter, and by every description of persons in office, from the prime minister to the exciseman—'Look to the example of France.' The implication was a libel upon the character of Great Britain. The characters of nations arose not from the difference of soil and climate, but from the invariable and eternal decrees of Providence. Government was the school and seminary of the soul."

He proceeded to press the distinction in the characters and minds of the mass of the inhabitants of different countries, according to their different governments. "I will not, therefore," said Mr Sheridan, "admit the inference or the argument, that, because a people, bred under a proud, insolent, and grinding despotism, maddened by the recollection of former injuries, and made savage by the observation of former cruelties; a people, in whose minds no sincere respect for property or law ever could have existed, because property had never been secured to them, and law had never protected them;

* Lord George Gordon, the author of the riots, was tried for high treason, and acquitted, as his offence did not appear to amount to treason; had he been tried for high crimes and misdemeanors, he without doubt would have been convicted. A special commission was issued for the trial of a great number of the rioters, many of whom were found guilty and punished accordingly.

a people separated and divided into classes by the strongest and harshest lines of distinction, generating envy and smothered malice in the lower ranks, and pride and insolence in the higher. That the actions of such a people, at any time, much less in the hour of frenzy and of fury, provoked and goaded by the arms and menaces of the surrounding despots that assailed them, should furnish an inference or ground on which to estimate the temper, character, or feelings of the people of Great Britain; of a people, who, though sensible of many abuses which disfigure the constitution, were yet not insensible to its many and invaluable blessings; a people who reverenced the laws of their country because those laws shielded and protected all alike; a people, among whom all that was advantageous in private acquisition, all that was honourable in public ambition, was equally open to the efforts, the industry, and the abilities of all; among whom progress, and rise in society and public estimation, was one ascending slope, as it were, without a break or landing-place; among whom no sullen line of demarcation separated and cut off the several orders from each other, but all was one blended tint, from the deepest shade that veiled the meanest occupation of laborious industry, to the brightest hue that glittered in the luxurious pageantry of title, wealth, and power: he would not, therefore, look to the example of France; for, between the feelings, the tempers, and social disposition towards each other, much less towards the governments which they obeyed, of nations so differently constituted and of such different habits, he would assert, that no comparison could be made which reason and philosophy ought not to spurn at with contempt and indignation. If pressed further for an illustration on this subject, he would ask, what answer would those gentlemen give, if a person affectedly or sincerely anxious for the preservation of British liberty, were to say, 'Britons, abridge the power of your monarch, restrain the exercise of his just prerogative, withhold all power and resources from his government, or even send him to his electorate, from whence your voice exalted him—for mark what has been doing on the continent! *Look to the example of kings!!* Kings, believe me, are the same in nature and temper everywhere; trust yours no longer:—see how that shameless and perfidious despot of Prussia, that trickster and tyrant, has violated every principle of truth, honour, and humanity, in his murderous, though impotent, attempt at plunder and robbery in Poland! He, who had encouraged and even guaranteed to them their constitution:*—see him, with a scandalous profanation of the resources which he had wrung by fraud from the credulity of Great Britain, trampling on the independence he was pledged to maintain, and seizing for himself the countries he had sworn to protect. Mark the

* After the first partition of Poland, and the promulgation of the new constitution by the Diet in 1788, the King of Prussia expressed his entire approval of the changes adopted, and with the basest perfidy declared, that he had nothing nearer his heart than the interests of Poland and the preservation of a good understanding with it; while at the same time he entered into a fresh alliance with Catherine, Empress of Russia, for making a second partition, which was effected in 1794.

still more sanguinary efforts of the despot of Russia, faithless not to us only and the cause of Europe, as it is called, but craftily outwitting her perjured coadjutor, profiting by his disgrace, and grasping to herself the victim which had been destined to glut their joint rapacity. See her thanking her favourite General Suwarrow,* and, still more impious, thanking Heaven for the opportunity; thanking him for the most iniquitous act of cruelty the bloody page of history recorded—the murderous scene at Prague, where, not in the heat and fury of action, not in the first impatience of revenge, but after a cold, deliberate pause of ten hours, with temperate barbarity, he ordered a considerate, methodical massacre of 10,000 women and children. These are the actions of monarchs! *Look to the example of kings!!'* What those gentlemen would reply to such an argument or exhortation I know not. My answer should be, I treat your inference and comparison with the same abhorrence and indignation with which I turn from those who would libel and traduce the character and principles of the people of England; and upon the same grounds and principles, I will not look to the example of the princes you point out, and justly, perhaps, stigmatise, in order to measure my allegiance and opinion of the King of Great Britain. I am not to be misled by names; I regard not that the four letters are the same which form the title of the despot of Brandenburg, and of the first magistrate of this free country. I will not look to the principles or practice of a man born and bred in flattery, falsehood, and faithlessness—of a prince accustomed to look to fear only for obedience, and to arms only for security; of one used to consider his people as his property, their lives and limbs his traffic; of one instructed to make his will the law, and the law his tool; of one, finally, whose heart must be perverted and corrupted by that which ever did and ever will deprave and corrupt the human heart—the possession of despotic power. I will not borrow from such an example a rule to estimate the principles, acts, or wishes of a monarch, where it must be as palpably his wish as his interest to reign in the hearts of his people; of a prince, whom a love of liberty alone in the people exalted to his present situation; and who must, therefore, regard and cherish that love of liberty in his subjects, as the real body-guard of his person; of a king, who, not seated on a solitary eminence of power, sees in the co-existing branches of the legislature his equals—in the law his superior; who, taught by the awful examples of our history, knows he is accountable for the sacred trust reposed in him, and,

* In the last struggle of the Poles for independence, under the famous Kosciusko, Suwarrow, who had acquired a high reputation in the Turkish war, acted as the General-in-chief of the Russian forces. Kosciusko was defeated and taken prisoner, and Suwarrow marched to take possession of the capital. The remains of the Polish army, which were collected at Praga, on the Vistula, opposite to Warsaw, made but a feeble resistance to the veteran army of the Russians, and, the capital having been stormed, its inhabitants were plundered and massacred without quarter. In the partition which followed, Austria obtained Cracow and the country between the Pilitsa, the Vistula, and the Bug; to Prussia was assigned Warsaw, and the country as far as the Nieman; the rest formed the share of Russia.

owing his title to the people's choice, feels the true security of his throne to be the people's love. Thus would I reply, and thus would I remain—though disclaiming the servile cant of adulation, with sentiments of unabated attachment to the person of our present monarch, and with unshaken adherence to the principle of hereditary government in this country, while limited, and directed to the objects for which that and all other power on earth is created—the benefit and happiness of the people who confer the trust.

" Mr Sheridan concluded, that, if he were to look to the prodigality, the corruption, the detestable system of spies and informers, the insolence of the higher and the oppression of the lower orders, which had distinguished the old government of France, and which, he contended, had produced all the evils of the present system, he would thence be taught to avoid introducing into this country a system of terror and corruption, and to give back to the people those rights and privileges which riveted their affection and secured their obedience, and placed the order and stability of the government upon their best foundation, the protection and happiness of the subject. The object of his present motion went only to bring back that which ought never to have been taken away. He should, therefore, now move for leave to bring in a bill to repeal an Act passed in the last session of parliament, empowering his Majesty to secure and detain such persons as shall be suspected of conspiring against his person and government."

On a division, the motion was lost by 185 to 41.

Speech in opposition to the third reading of Mr Pitt's bill for increasing the Assessed Taxes—4th January, 1798.

On the opening of Parliament in November, 1797, Mr Pitt stated the supplies for the year ensuing to be estimated at £25,000,000, and brought forward a new financial plan, for raising a considerable portion of that sum within the year, without adding to the permanent debt of the country. The substance of his proposition was, to treble the assessed taxes ; but with the proviso, that no person should be assessed higher than a tenth of his income, which was to be taken at the amount declared by individuals, subject to be checked by surveyors, in case of unfair returns.

" Sir,—The honourable gentleman (Mr Martin) who has just sat down, has called for more explanations of what other gentlemen have advanced than I ever recollect to have heard in this house. In candour I must conclude that the honourable gentleman really wanted information upon the points which he affected not to understand; and that where he did misunderstand or mistake the arguments of others, he did not mean to be guilty of wilful misrepresentation. The speech of the honourable gentleman, however, called upon so many members to explain the points upon which he has commented, that I have been under the necessity to give way to them. I now rise, thus early in the debate, and I feel some satisfaction in reflecting

that the adjournment which has taken place gives me an opportunity of presenting myself when the attention of the House was awake, because, had I proceeded last night, I might have found the honourable gentleman (Mr Martin) wearied and exhausted, and disposed, perhaps, to give me a hint to sit down before I had finished my argument. I have listened to the speech of the honourable gentleman (Mr Perceval); a speech of great talent, great ingenuity, and considerable vehemence. The sentiments which it contains seemed to be so much in unison with the feelings of those around him, that I flatter myself that the approbation with which it has been received may contribute to shorten the debate, and to supersede the necessity of making long speeches from that side of the House. It was remarkable, however, that the honourable gentleman, amidst a variety of matter on which he descanted, cautiously abstained from touching upon the real question before the House. Many of the topics which he brought forward, I am ready to admit, were fairly introduced, and perfectly regular in parliamentary debate. While I admit the right of the honourable gentleman to argue the subject in his own way, it perhaps might have been better had he altogether abstained from certain points; or, to use a phrase which has become very fashionable since the introduction of the present bill, had he modified his attack upon my right honourable friend.* The honourable gentleman never attempted to show that the right honourable gentleman† below him was the fittest person to administer the affairs of this country—that he was the ablest minister for the conduct of war, and the most proper person to negotiate with success. The whole scope of his speech was merely to show that the right honourable gentleman was placed in the revenue to bar my right honourable friend, as if it necessarily followed that he alone could be the successor of the present minister. Supposing, as he did, for the sake of argument, that my right honourable friend was qualified to negotiate with a better prospect of success than the Chancellor of the Exchequer, he said it would be incumbent upon the House, as a preliminary step, to treat with their negotiator. He thought that my right honourable friend could not be invested with that character without danger to the country. What were the grounds upon which this assertion was founded? He accuses my right honourable friend of having considered men as innocent who were acquitted by the verdict of a jury, and having argued, upon this acquittal, that there was no proof of the conspiracy of which they were accused.‡ He accuses him of having said, on the discussion of the treason and sedition bills, that resistance would be a question, not of morality, but of prudence. Above all, he founded his apprehension upon words which he supposes to have been lately used by my right honourable friend, that he would take no share in any administration without a total, fundamental, and radical reform. The honourable gentleman has made a very pretty play upon these words. I cannot but suspect, however, that the honourable gentleman, who has been

* Mr Fox. † Mr Pitt. ‡ See page 192.

celebrated for epigram, has put these words into the mouth of my right honourable friend, merely for the sake of the point with which he has contrasted them. He finds out that the reform so broadly stated will not be a total reform; that the fundamental reform will not touch the foundation; and that the radical reform will be confined to the branches without descending to the root? This epigrammatic wit, however, is founded entirely upon the words which the honourable gentleman has purposely added to the expression to which he alludes. They were not used by my right honourable friend. The expression he employed, and which has become more conspicuous from its being made the subject of particular thanks in certain resolutions lately advertised, was, that he would take no share in any administration, without a radical reform in the representation, and of the abuses of the present system. Such was the expression of my right honourable friend, and the words which the honourable gentleman has added into the bargain were merely introduced to point a sentence, and to enliven his speech. The honourable gentleman considers the conduct of those whom he represents as unfit successors to the present men in power, as calculated to encourage the Jacobins, and to forward the views of the French. These certainly are formidable evils, but the honourable gentleman quickly discovers some ground of consolation amidst the dangers which he apprehends. He thinks that my right honourable friend would retract the declarations he has made, that he would renounce the principles he has avowed, and that, in office, he would not act upon the professions he held before he came into power. On what part of the conduct of my right honourable friend he founds this assertion, I am at a loss to conjecture. What are the professions, made when out of office, which in power he has belied? True it is, that such conduct is not unusual with statesmen. True it is, that there have been men who have forfeited such pledges; who have said that there could be no salvation for this country without a radical reform (for this, beyond dispute, was the expression of the right honourable gentleman opposite);* who have maintained that no honest man could undertake the administration of this country without that reform; and have, like him, abandoned the words and principles they once held, and resisted, by all the power of corruption, the cause which they laboured to promote. With the right honourable gentleman, the type and image of apostasy before his eyes, it perhaps was natural that the honourable gentleman should consider professions as made only to be renounced. When he reflected that the present minister had not only abandoned the principles he professed, and violated the faith he pledged to the public, but had become the most zealous persecutor of those whom he had convinced by his arguments and influenced by his example, there was no wonder that he should distrust professions, and ascribe but little sincerity to the declarations of statesmen. The honourable gentleman apprehends that

* In 1782, Mr Pitt had been strenuous for reform himself, moving for a committee "to inquire into the state of the representation of the people in parliament, and to report to the House their sentiments thereon."

many dreadful consequences would ensue, were this radical reform to be carried into effect. What that radical change of system is to be, the honourable gentleman professes to be ignorant. For my own part I can say, that no man can be more decidedly hostile than I am, to any change of system that could lead to a change of the ancient established constitution of this government. But I will tell the honourable gentleman what has been the consequence of that change of system which has been introduced into the constitution of this country. If any minister of brilliant talents, of splendid endowments, but actuated by principles of the most boundless and colossal ambition, raised up by influence, supported by corruption, should set at nought the rules of Parliament, violate the act of appropriation, raise money without the authority of this house, and send it out of the country without the consent of parliament,* if he has transgressed the constitution with impunity, if his criminality is suffered to pass even without rebuke—this is nothing less than a radical change of system. If by his folly and incapacity he has raised discontents—if, by the burdens which he has imposed, to support an impolitic and ruinous system, he has alienated the minds of the people from his government—if, to suppress the opposition which such a state of things must naturally produce, he has had recourse to military force, and covered the country with barracks, in defiance of the constitution—such practices constitute a radical change of system. If he has distinguished his administration by severity unknown to the laws of this country—if he has introduced new codes of treason and sedition,† if he has doomed men of talent to the horrors of transportation, the victims of harsh and rigorous sentences,‡ if he has laboured to vilify and to libel the conduct of juries,§ such proceedings originate in a radical change of system. If he has used the royal prerogative in the creation of peers, not to reward merit, but converted the peerage into the regular price of base and servile support—if he has carried this abuse so far that, were the indignant, insulted spirit of this nation roused at length to demand justice on the crime of which he has been guilty, he would be tried in a house of peers, where the majority of the

* £1,200,000 had been advanced to the Emperor, without the previous consent of parliament, although sitting at the time.

† In consequence of the attack on his Majesty, in 1795, which was supposed to have resulted from the seditious meetings held at that time, and, in particular, the meetings of the Corresponding Society in Copenhagen Fields, the government introduced two bills : one in the House of Lords " for the safety and preservation of his Majesty's person and government against treasonable and seditious attempts," and one in the House of Commons, " for the prevention of seditious meetings;" both of which, after a strong opposition, were passed.

‡ Mr Sheridan here alludes to the severe sentence on Messrs Muir and Palmer, who were tried in 1794, in Scotland, for " leasing making," or stirring up sedition; and, being found guilty, were condemned to fourteen years' transportation. Considerable doubt was entertained, whether the law warranted a severer punishment for their offence, than outlawry, without transportation.

§ See page 194.

judges were created by himself—I will tell the honourable gentleman that such a state of things must have originated in a radical change of system. Would it not be right, then, to pull down that fabric of corruption, to recall the government to its original principles, and to re-establish the constitution upon its true basis? Will any set of men deny the necessity of a radical change of system by which these evils shall be corrected, but those who already share in its corruptions, or who, at some future period, expect to promote their personal interests by those very abuses which have exhausted the strength and endangered the safety of their country.

"So much, then, for what the honourable gentleman has said upon this subject. It must now be clear that no peace can be obtained. It was not even supposed by the friends of Ministers that they were sincere in their attempts at peace till the last trial. Then I am rather inclined to give them credit for sincerity, though I can see that a right honourable gentleman (Mr Wyndham) trembles at the very idea of peace with the French republic. The honourable gentleman, however, takes it for granted, that there can be no choice, but between the Chancellor of the Exchequer and my right honourable friend; on a former occasion, however, I stated, that any other set of men should try to negotiate peace with France, because any set of men must negotiate with a better prospect of success than the present ministers; it is not in nature, that the French can consider the right honourable gentleman capable of maintaining the relations of peace and amity with their government. They know that the hostile mind exists, that peace is not sought in the spirit of peace, that no real reconciliation is desired. Any peace that could be concluded I would consider as a false and hollow truce. It could not be a ground of security; it could not restore the blessings of peace. Upon the faith of it I could not consent to the reduction of a single man, in the military or naval establishment of this country. Jealousies and suspicions would poison all the advantages which a sincere peace could bestow. The French would feel that they furnished to the administration of this country the means of fomenting the dissensions in France from which they cherish the hope of re-establishing royalty; they would lay themselves open to those intrigues, and to that corruption, which have hitherto been employed to overthrow their new institutions. If the French Directory could encourage or agree to such an insidious truce, and expose the government which they administer to such attacks, as in this way it would sustain, they would be guilty of treason to their country. But it is impossible they could risk such dangers. It is impossible that they could stake their existence on the hollow and deceitful peace which the present Minister could offer.

"The honourable gentleman, then, cannot say, that there is no alternative between those who are in power, and those he points out as their successors. From different men and different measures, hopes of peace might be derived. But it is said that my right honourable friend, and those who act with him, are co-operating with the French; and what is the proof of this assertion? Why, the French say so! This, indeed is a curious mode of proving the fact.

It would, indeed, be a hard rule, if what the enemy say of what is done by any members of the British parliament, was to be the standard by which they are to be judged. We are not to be tried by what we have said, by the measures we have recommended, by the whole of our conduct, and by our own professions, but by the opinion which the enemy may think proper to express. But how, then, do we co-operate with the enemy? We are friends to reform; a phrase which, it seems, is henceforth to be deemed synonymous with revolution. But how is this reform, from which such dreadful consequences are apprehended, to be introduced, even were my right honourable friend to support it when in office? Will not the right honourable gentleman be still ready to oppose it? The honourable gentleman either thinks that my honourable friend, when minister, will have in favour of reform that corruption, that influence, those titles, those jobs and contracts, by which it is now opposed; or he thinks that, parliament being dissolved, that corruption and influence will be employed to induce the people to choose representatives favourable to the cause of reform. What do these arguments prove, but the necessity of reform? They prove that the pretended representation of the country is in the hands of the Crown, to be moulded at the will of the minister, and thus furnishes the most powerful motive to remove the causes by which this corruption is maintained.

"Having made these remarks upon the topics introduced by the honourable gentleman, I shall next say a few words upon some things which fell from a noble lord (Hawkesbury) in yesterday's debate. The noble lord says, 'that those who oppose all supply ought to have made that opposition when the supply was voted.' For my own part, I am not against all supply, though I am not sure that a different conduct would be fully as proper. But, in a constitutional view, nothing can be more parliamentary than to refuse voting supply. It is fair to infer, that, if Ministers have not the confidence of this house, the refusal of supplies would be attended with the immediate resignation of those ministers. Certainly it is not the intention of any man that the army or navy should be disbanded, and the country laid at the feet of the enemy. Such an alternative does not follow from the refusal of supplies. I confess, however, when I consider the desperate characters of the ministers in power, I think it would not be advisable to risk the attempts of which they might be guilty to retain their power, even in defiance of the constitutional privileges of this house. The noble lord, however, says, 'that never was the naval superiority of this country more conspicuously displayed, never was our naval glory more highly exalted, than by the brilliant victories obtained during the present war.' What, however, must be the nature of the war, when these splendid successes have not brought us nearer to the objects for which we engaged in the contest? What must be the importance of our acquisitions, when they are all to be given for peace? 'How would France have stood had we not interfered?' says the noble lord. 'What additional strength would she not have derived from those ships and those colonies of which she has been deprived by our success?' But let any man weigh the

advantages we have derived from our success, with the sacrifices by which they have been purchased. Will any man say, that, if this country had preserved a dignified neutrality, France, surrounded as she was by foreign enemies, would have still more oppressed and harassed her subjects to raise a naval power which no danger required? Contrary to all practice, to all experience of what has been considered as the object of continental diversion promoted by this country, would France, in the situation in which she was placed, have turned her attention to naval exertions? But we gained several ships by the victory of the 1st of June,* by the capture of Toulon,† by the acquisition of those charnel-houses in the West Indies, in which 50,000 men have been lost to this country. Consider the price which has been paid for these successes. For these boasted successes, I will say, give me back the blood of Englishmen which has been shed in this fatal contest—give me back the £250,000,000 of debt which it has occasioned—give me back the honour of the country, which has been tarnished—give me back the credit of the country which has been destroyed—give me back the solidity of the Bank of England, which has been overthrown‡—give me back the attachment of the people to their ancient constitution, which has been shaken by acts of oppression and tyrannical laws—give me back the kingdom of Ireland,§ the connexion of which is endangered by a cruel and outrageous system of military coercion—give me back that pledge of eternal war which must be attended with inevitable ruin! Put what we have lost into the scale against what we have gained, and say if the price exceeds the value of the object. But even all these advantages, we are told, may be given up for peace. Surely, then, a person of the noble lord's abilities can never consider these objects as acquisitions, which are to be given up for peace, and leave us without a compensation for all the sacrifices which we have made for their attainment. The noble lord says, 'that the value of the West India Islands taken from the enemy, must be estimated in relation to our own. By the offensive measures against the former, the latter were preserved.' If this be the case, then, when we give up the islands we have conquered, we give up our own islands, and abandon the security by which they are held. Such are the

* Lord Howe's celebrated victory, 1st June, 1794. † See page 179.

‡ In consequence of the large advances made by the Bank to Government for the public service, and remittances to foreign states, added to the run on the country banks, which some extended to London, from the fear of threatened invasion by the French, an order was issued by the Privy Council prohibiting the Bank from paying their notes in gold, and an act of Parliament was shortly after passed for the same object. By the reports of the Secret Committee, appointed by the House, it appeared that, at the time of the suspension of cash payments, the assets of the Bank amounted to £3,826,890 beyond its liabilities, independent of £11,666,800 in the 3 per cents, due from Government.

§ In a subsequent part of this year, 1798, the great Irish Rebellion broke out, in which upwards of 30,000 lives were sacrificed. By ministers, the rebellion was attributed to the spread of jacobinical principles through seditious clubs, and by the opposition to a tyrannical and unconstitutional system of government.

acquisitions which we have made at the expense of so much blood and treasure.

" With regard to the continental war, the noble lord says, ' that we had done our duty ;' but he now discovers that our allies were guilty of every error, and all of them were destitute of common honesty. After some years' experience of the conduct of our allies, and of the principles by which they were guided, the noble lord could vote for giving two millions to one of them !* Even this ally, the theme of so much panegyric, in whose success it was said that every peasant in this country was interested, in whose glory every Englishman partook, is now comprehended in the general charge of the noble lord against the continental members of the confederacy. But, in the prosecution of their views of personal interest and aggrandisement, they took the example from the conduct of this country. When they found the hypocritical pretences of religion, morality, and social order belied by our eagerness to seize upon every island, to plunder every possession which was exposed to our power, they began to entertain similar views, and to be actuated by the same motives. Those who would succeed ministers, it is said, however, are connected with Jacobins. Who are they who are connected with the Jacobins ? Would it be the same thing to entrust the administration of affairs in the hands of those who oppose ministers, as if the Whigs, in 1745, had resigned the state into the hands of the Tories ?† The latter was avowedly desirous to alter the succession ; but will gentlemen seriously say, that they believe that those whom they represent as the only rivals of the present ministers, are leagued with any faction to alter the constitution of this country, in the same manner as the Jacobites, in the year 1745, were hostile to the existing establishment ?

" Availing myself of the latitude of reply upon the general topics brought forward by those who have spoken upon anything but the question before the House, I shall now proceed to make some remarks on the speech of a learned doctor who spoke last night.‡ Having come to this House several hours after the debate had begun, and finding that the gentlemen who spoke, after I came in, confined themselves very little to the discussion of the present measure, I was obliged to take it for granted, the particular question before the House had been very fully discussed in the speeches which were made before my arrival. The learned doctor to whom I have alluded, perhaps, may not remember that he spoke at all. A wise man, it is said, doubts of everything ; and the learned doctor seemed to carry his scepticism a great way, for at the commencement of his speech he doubted whether he was

* Two millions and a half were voted for the King of Prussia in 1794 ; notwithstanding which, he withdrew from the coalition in 1795, and concluded a treaty with France, engaging not to furnish his former allies with any succours or contingents whatsoever. See p. 175.

† The time of the attempted invasion by Charles Edward Stuart, son of the Chevalier de St George. See note, p. 3.

‡ Dr Lawrence.

speaking. I remember the words with which he began were, ' Sir, in rising to address myself to you on the present occasion, if I have risen.' If the learned gentleman still doubts whether he spoke at all, I can assure him that he made a very ingenious, a very elaborate, and certainly a long speech upon a variety of topics, without speaking at all to the bill before the House ; and, if he doubts my authority, any other gentleman may probably give him the same assurance. The learned gentleman went into a wide view of Roman history, and told us, upon the authority of Scipio, that we had little to dread from the threatened invasion of the enemy, because they must conquer us before we could conquer them. What would the lord mayor and aldermen of London say, if the learned gentleman were to tell them, when Buonaparte was encamped at Blackheath, that they need be under no apprehension ; that, before he could advance to burn the city of London, Lord Hawkesbury was advancing to lay Paris in ashes ? I should like to see the faces of the mercantile world, when they were informed, on the authority of Scipio, that they could not be safe till the enemy were at the gates of the metropolis, and that they could not hope for a successful termination of the contest, till they had been first conquered ! In the representation of the conduct of Hanno, at Carthage, by whose exertions the supplies were refused to Hannibal, the learned doctor did not do justice to Hanno. At the same time it is to be observed, that he said not a word of the striking difference between Hanno the Carthaginian, and the Hanno whom he insinuated to be in the British senate. Hanno succeeded in keeping back the supplies.* But has the British Hanno ever been able to prevail upon the senate to refuse supplies ? has he unnerved the vigour of our exertions ? has he checked the career of success ? has he suspended our victorious arms in the moment of triumph ? On the contrary, has not the Minister received supplies with unexampled profusion ? has he not been allowed to employ them as he thought proper ? has he ever been rebuked for misapplication ? has his misconduct ever been the subject even of inquiry ? Hannibal, too, was a young man—*flagrantem cupidine regni.* The argument of Hanno was, ' I hear of the victories of Hannibal, but I hear of no advantage which they produce to Carthage. Every victory is followed by fresh demands and new requisitions. The continuance of the war, therefore, must prove ruinous to Carthage.' The affairs of the Carthaginians afterwards miscarried. Hannibal afterwards laughed at his countrymen. But what did he laugh at ? He

* Mr Sheridan here was in error, for a large majority of the Carthaginian senate voted for sending the supplies asked for. The account, in Livy, lib. xxiii., c. 13, is, " Haud multos movit Hannonis oratio ; nam et simultas cum familiâ Barcinâ leviorem auctorem faciebat, et occupati animi præsenti lætitiâ nihil, quo vanius fieret gaudium suum, auribus admittebant ; debellatumque mox fore, si anniti paululum voluissent, rebantur. Itaque ingenti consensu fit senatûs-consultum, ut Hannibali quatuor Numidarum millia in supplementum mitterentur, et quadraginta elephanti et argenti multa talenta. Dictatorque cum Magone in Hispaniam præmissus est, ad conducenda viginti millia peditum, quatuor equitum, quibus exercitus qui in Italiâ, quique in Hispaniâ erant, supplerentur."

laughed at those men who affected to be dissatisfied with the terms of peace, without considering in whose hands they had left the conduct of the war. In similar circumstances, any man might, perhaps, smile, like Hannibal, to see the people of this country discontented with the terms of peace, when it was remembered that the war was prosecuted under the auspices of the present ministers.

"I cannot refrain, however, from expressing my astonishment, that a grave personage like the learned gentleman, a member of the gravest profession which this house contains, should bring forward all his school-boy politics to evince the propriety of invading France. The learned gentleman, perhaps, thinks that it falls to his share to support in this House the opinions of a man of much greater talents, of much higher endowments—the late Mr Burke, whose name ought never to be mentioned but with respect. He thinks, perhaps, that he is the executor of that great man's principles; that he is called upon to administer to his fury without possessing a single spark of his fire. I regret that any gentleman should conceive himself the representative of the violent and extravagant declamations, which so fatally were received in this House with so much approbation, and which have been attended with such lamentable consequences to this country and to Europe.

"The frivolous school-boy topics, for such they are, upon which the learned gentlemen proposes to model our conduct, have, indeed, no similarity to the circumstances in which we are placed. When he desires to imitate the conduct of the Romans, does he remember that the Romans were a people inured to war and to hardships? Does he mean to compare a commercial country like Great Britain with a warlike people like the Romans, or to point out similar rules of policy for the guidance of our conduct? Had Rome the debt by which this country is borne down? Had Rome the bulwark of a navy supported by commerce? Would sacking that capital have given a death to that credit by which alone we can subsist as a nation? If the arguments of the learned gentleman could even produce the effect which he desires, the event would not furnish a subject for the moralist and the historian, but the fate which would await the right honourable gentleman, if he was seduced by such counsels, might be expressed in the language of the poet—

> "'I demens curre per Alpes,
> Ut pueris placeas et declamatio fias.'

Posterity would brand his name in the same manner, furnishing, in his destruction only, the subject of panegyric to school-boy politicians, and a speech to a grave doctor learned in the law.

"The learned gentleman, amidst all his topics of argument, said nothing as to the nature of the bill before the House. If, after the deviations which the course of the debate has taken, I may venture to take that liberty without being called to order, I shall now say a few words to the question. It has been asked, Do those who oppose this measure admit the principle, or can they produce anything better? Certainly no person is bound to propose a

measure of his own when he rises to oppose that of the Chancellor of the Exchequer: yet, in such a crisis as the present, it would be unmanly to withhold any ideas which we can contribute, or any of the sentiments we entertain. I then say that the only mode by which any sum like that required can be raised, is by a loan, the interest of which is to be paid by taxes, or voluntary contribution, with a sinking fund for the extinction of the debt.* This is the true principle by which money can be raised in this country. Suppose it is impossible to borrow: in such a state of things this country is ruined. If Government cannot borrow, the subject cannot give. I am very far from wishing to inculcate despair. If I really entertained such a sentiment, I should wish to disguise it even from myself. But we may yet borrow. How, then, are the funds to be raised to that state at which it may be convenient to borrow? It must be done by abandoning the system on which we have proceeded—by retrenchment in the public expense. If public spirit does exist, voluntary subscriptions may afford some aid; but of this, I confess, I am not very sanguine. Above all, however, it is necessary to restore the Bank to its former credit, to prevent any stipulation being made to prevent it from paying its just debts, and to restore to the country the blessing of peace. As to the present measure, it must end in forced contribution of income by forced disclosure, a thing utterly irreconcilable to the spirit of a free and commercial country. If assessors were to be appointed, arbitrarily to make assessments of the income of every individual, which, from the surveys already made by the collectors of the income of individuals, seems to be the design of Ministers, such a mode of proceeding would be a better criterion than the assessed taxes. In my mind, no criterion at all, however good it may be thought, can render the principle tolerable. Those who, from the criterion taken up by the minister this year, have been caught, will be careful in future to avoid any external symptoms by which, on any future occasion, they might be assessed. It will occasion universal retrenchment, and, consequently, injure the revenue by destroying consumption. The effect of this system of retrenchment will diminish the public revenue by at least two millions. An arbitrary assessment would be better than that taken on any criterion, because the former would make it indifferent to the person contributing, whither he spent all his income or not: while the latter would induce him to avoid every appearance that could be made the future standard of contribution. A coachmaker, in Long-acre, would do wisely, if he could, to give at once a hundred pounds, than a much smaller sum which deprived him of his customers. In the same manner the watchmakers. Their employment was not taxed, because that would seem to tax ingenious mechanics; but those who wore watches were taxed, and many industrious men were reduced to the most deplorable wretchedness. The whole system and principle of the measure appears utterly irreconcilable with every wise and just scheme of taxation.

* This was the principle proposed by Mr Pitt, in 1786, for the reduction of the national debt.

"What substitute, then, is to be taken? There are but three ways in which this sum can be raised within the year—either by voluntary contributions, by increasing the existing taxes, or by a forced loan; and of these three the present measure is the worst. Might not the whole of the plan be postponed, except that which provides for voluntary contributions? And I am sure, for one, I have no objection to read the bill, in that case, three times in one day, that we may try this experiment. With this bill hanging over us, such contributions could not be called voluntary, for no man could hesitate, in point of prudence, to pay the full amount of what he would be obliged to pay, rather than be made to contribute on the valuation of income taken from any visible symptoms. I am not very sanguine of the success of voluntary contributions,* without some such compulsions. From the highest to the lowest of those connected with the government, there has been no disposition to give up anything: there has been no example to the people of this spirit of sacrifice. It is not easy to encourage individuals in the habits of acquisition, and the spirit of liberality towards the government. If a Bengal memshi, or a Chinese mandarin, were to be informed that £400,000,000 had been lent to the government by individuals; that a race was run by the competitors for the preference; that men contended about the subdivision of the portions, and parcelled out the parts among a crowd of friends, he would be ready to exclaim, 'O magnanimous, O invincible people!' Were he again to be told that the views which actuated the lenders were selfish; that their profits were usurious; that loyalty-loan holders had besieged that house for indemnification for the loss sustained on a bargain, he would exclaim, 'O wretched, O undone people!' It is by addressing the interest of this body of men, however, that the accommodation of the government can be secured; and how is the credit of the country to be restored to that situation which will render it practicable?

"No disposition to contribute voluntarily has yet been displayed, from the very highest to the lowest ranks in the administration of government. While a teller of the Exchequer receives £10,000 or £12,000 a year by the war, a near relation of that person contends that no peace ought to be made. But I am told that it is rude, uncourteous, and vulgar, to suppose that such a sum could influence the sentiments of any man. Rude, uncourteous, and vulgar as this is, the constitution is that rude, vulgar fellow, though the right honourable gentleman will flout and scorn those who suppose motives of this nature. The constitution is jealous of the effect of office, and even sends a man back to his constituents who accepts a situation to which important duties are attached. I have high authority, therefore, in supposing, that some bias may affect the mind where interest powerfully prompts a man to support any system of measures. I recollect,

* A clause was subsequently introduced into the bill for the purpose of admitting voluntary contributions, and the sum thus received amounted to £1,500,000, of which the Bank gave £200,000, the King £20,000, and the Queen £5000.

that at the end of the American war, when I was secretary to the Treasury, the noble marquis, who is teller of the Exchequer, wrote a letter to the commissioners of the treasury, requesting that the office might be placed in the reform, but saying, at the same time, that his conscience would burn to think that he was profiting by the calamities of the country. This offer, however, was declined. Now, however, when the public exigencies so strongly demand some sacrifice, I am persuaded the noble marquis will not only be ready to forego a part of the profits of this office, but will bring up all the arrears that burn upon his conscience since the year 1783.

"Last year, I took occasion to state that twenty-four millions would be necessary for the peace establishment of the country, taking the average peace establishment before the war at seventeen millions. Since that period, seven and a half millions of permanent taxes have been added, and it will require another million and a half before the sum already expended and due can be provided. Thus, twenty-six millions must be raised, though peace was immediately to take place. When it is considered, however, what any new peace establishment must be; when the system which is pursued in this country is taken into view; when the manner in which Ireland is not governed, but ground down and oppressed; when the hollow and deceitful nature of any peace with the right honourable gentleman is recollected, no man can think that two millions more, making twenty-eight millions, would be an extravagant computation as the amount of the permanent peace establishment. This is a tremendous and awful consideration; but, if the country is to be saved, we must look our situation in the face, and make provision for the utmost extent of our difficulties.

"While the Bank continues in its present state of dependence on the Minister, it is impossible to hope, however, that public credit can be restored, and the funds raised. Last year, much was said in the newspapers about the connexion between the right honourable gentleman and the Bank. It was said, that the banns had been forbid. The conduct of the Chancellor of the Exchequer showed, that he cultivated the connexion on account of the lady's dowry, not for the comfort of her society. At first, the affair seemed to present the appearance of a penitent seduction, but now it has degenerated into a contented prohibition. The country wished to forgive the indiscretion, on the hopes of amendment. What has produced the infatuation it is not easy to conjecture, unless the right honourable gentleman had given the old lady love-powder. The hey-day of the blood was over, but the rankness of the passion has not subsided. The dear deceiver is taken into favour, and the ruin he has occasioned is forgotten.

"Upon the examination into the affairs of the Bank, the standing committee of correspondence between the Bank and the Ministers pronounce, that there are sufficient means to pay all the private debts of the Bank—but the Minister interposes. The Bank is placed in the situation of a person who can pay and will not. Of all situations, none could be more injurious to credit than this. When it is known that men are willing to pay, credit

stretches a great way in favour of their ability; but when a person is understood to be able to pay, and will not, the confidence on which credit must be founded is overthrown.

"The manner in which the last report of the Bank committee is drawn up, is likewise very curious. It is found there is enough of fund to pay the private creditors of the Bank; but the Chancellor of the Exchequer says, 'No! and claps his lock and key on their coffers. Without meaning any quibble on the name of the honourable chairman of the committee, the conduct o the right honourable gentleman irresistibly reminds me of an old proverb. The report of the committee is very favourable, but still the Bank must be kept under confinement. 'Brag is a good dog,' says the Chancellor of the Exchequer, 'but Holdfast is a better,' and the Bank must be kept under the tutorage of the Minister, till he finds it convenient for himself to set the directors at liberty. The advances made by the Bank to government occasioned the first stoppage, and now three millions are again to be advanced without any security whatever. If the directors do not insist on some security for their repayment, they will be guilty of a gross breach of duty, and the most culpable neglect of the interest of their constituents. It seems that the Bank is to be the new Temple of Janus—ever shut in time of war.* While war continues we must be contented to view the meagre paper profile; nor will we be permitted to contemplate the golden bust till the return of peace. The French Directory are thus to have the keys of the Bank, which cannot be opened till they grant permission.

"The right honourable gentleman says, 'that the French aim their attacks against the credit of this country, and it is necessary to guard against their designs.' The expression of the report is whimsical enough: it states, that the enemy design to attack us 'by means of our credit.' 'No,' says the Chancellor of the Exchequer, 'I have taken care to take that weapon out of your hands; a dangerous weapon like this I certainly will not leave you to employ.' It is said by some, that the conduct of those who oppose the Minister encourages the French; while, on the contrary, the whole system of his administration tends to encourage their designs. He has taught them to believe that he governs the lower classes only by coercion, and the upper ranks by corruption. More is done by the language held by some gentlemen in this house, that it is necessary to confine the soldiers in barracks, to make them deaf if the people cannot be made dumb, than by any conduct which can be imputed to the opposers of Ministers. By showing that the Minister can get no support unpurchased, the enemy are led to think that there is no public spirit in the country—that nothing can be done but by jobs, and titles, and pensions. What can they think of those who come forward under the

* Janus was worshipped by the Romans as a Deity presiding over war, and was hence called Quirinus, or Martialis. He was also named Patuleius, and Clausius, from the circumstance of the gates of the temples dedicated to him being always open in time of war, and shut in time of peace; and so constantly were the Romans engaged in war, that the gates of this temple were only shut three times in more than 700 years.

pretence of public spirit, when they see that every man obtains his own private job as the reward of his ministerial devotion? They saw that disgrace after disgrace never diminished his power; that every successive attack on liberty was defended and supported by compliant majorities; that every new failure served only to rivet the attachment of his servile adherents. When they see the nation endure these things, can they conceive that it will be found to contain much public spirit to resist a foreign enemy? Beyond question, great sacrifices must be made, whoever is minister; and, if the enemy persevere in their designs, resistance to invasion must be encouraged at every hazard. We must give up the idea, however, of doing this, and continuing in a state of luxury. Should it be necessary, we must show that we are ready to strip to the skin to maintain our independence and our liberties, in the same manner as they were compelled to struggle for their freedom. It is mere cant and delusion, to talk any longer of giving up a part to preserve the whole—that we must leave both our liberty and property unmortgaged to posterity. If I am called upon to pay a shilling to preserve a pound, this is intelligible; but if I am called upon twenty times successively for my shilling, it is ridiculous to tell me of giving up a part for the preservation of the whole. This will not do: and as a worthy baronet (Sir W. Pulteney) said on another occasion, 'if it is so often repeated, it comes to no joke.' This kind of paradoxical insult cannot long be endured. It will not do to tell us, that sending millions of money to Germany, for the defence of this country, is true economy; that to lop off the most valuable of our liberties,* is to preserve the constitution; that not to pay its lawful creditors, is to support the credit of the Bank; and to introduce an universal disclosure of income, is to protect property. This is the last stage of such delusion. The tricks have been too often repeated to elude the most inattentive observation. While the affairs of this country continue in the same hands, they cannot be administered wisely or well. The country cannot have confidence in a system, always unsuccessful, now hopeless; and the dismissal of Ministers must be the preliminary step to any vigour of system, any prospect of peace."

On a division of the House, the bill was carried by 196 to 71.

SPEECH in support of the motion by Mr Yorke, the Secretary at War, for a peace establishment of 130,000 men, exclusive of 50,000 already voted for the service of the navy.—8th December, 1802.

Notwithstanding that a definitive treaty of peace between the French Republic and Great Britain had been signed at Amiens in March, 1802, a cordial reconciliation was very far from being effected, and the political measures of the First Consul plainly indicated that he had little regard for the preservation of amicable relations. His continual encroachments, after the signing of the preliminaries of the peace on the 1st October, 1801, naturally

* Mr Sheridan alluded to the suspension of the Habeas Corpus Act. See page 191.

excited jealousy, and would have led to a declaration of war, had not the European powers been, at that time, heartily tired of bloodshed, and most anxious to obtain peace, even at considerable sacrifice. From Spain, Napoleon procured the cession of Louisiana and Parma. Piedmont he annexed to France, and divided into compartments. By a treaty with Portugal, he acquired Portuguese Guiana; and, by an agreement with Naples and Tuscany, the Island of Elba. By his interference, as mediator, in the disputes of the Swiss, he destroyed the independence of Switzerland, and made it completely dependent on France. Guadaloupe was recovered in the West Indies. By a treaty concluded with the Cisalpine Republic, Napoleon procured himself to be appointed their President; the constitution of the Batavian and Ligurian Republics were remodelled, to meet his views, in disregard of the treaty of Luneville, by which the independence of the republics of Italy and Holland had been guaranteed; and there were good grounds for supposing that another attempt on Egypt was contemplated. Besides all these evidences of bad faith, the hostility of Napoleon towards England was plainly manifested by the restrictions he imposed on the importation of British goods into France, which nearly amounted to their prohibition. It was therefore impossible, in this state of affairs, for foreign powers, and more especially for England, which had taken so prominent a part in the war, to make any considerable reduction in the war establishments. The so-called definitive treaty of peace could only be regarded as a temporary suspension of actual hostilities, which were certain of being renewed as soon as either circumstances might render them advantageous to the First Consul, or the patience of the foreign powers had become exhausted. It has been aptly remarked, that, during this period, "peace sat like down upon the thistle's top." On the meeting of the English Parliament in November, 1802, the King, while he expressed his desire for the maintenance of peace, recommended that, for the present, no material reduction should be made in the war forces, and the addresses in approbation of the royal speech were voted in both houses without a division. On the 8th December following, the debate on the Army Estimates took place, and on that occasion Mr Sheridan delivered the following Speech:—

"SIR,—

"Being in the situation alluded to by the right honourable gentleman who has just sat down,* of not being able to agree precisely with any of those who have preceded me, yet, being at the same time unwilling to give a silent vote on the present occasion, I rise with some sentiments of reluctance. There is one thing, however, in which we all coincide; it is, that the crisis in which we are placed is so big with tremendous importance, so pregnant with mighty difficulties, so full of apprehensions and dangers, that the house and the country have a right to know what are the intentions and views of those by whose exertions we may expect to be extricated from the complication of embarrassments, and snatched from the very brink of destruction. Sir, one of the circumstances I most regret in this debate is, the refer-

* The Right Honourable D. Ryder.

ences that have been made to the characters and abilities of persons supposed to be fit to fill particular offices. I feel this as a subject of regret, and, feeling so, am sorry that my honourable friend near me made any allusion even to one man, whom of all men upon earth I most love and respect, because I do view the crisis to be one of such moment and peril; and because, if ever there was a time in which we should prove to the people of England that we are above all party feelings, that we are above all party distinctions, that we are superior to any petty scramble for places and power, that time is the present. Sir, in speaking upon these topics, I do find a disposition in some gentlemen to rebuke any man who shall deliver an opinion with respect to the First Consul of France. One honourable gentleman, who rebuked an honourable general that spoke before him, declared that he would not give his opinion with respect to the conduct of France to Switzerland;* and what does his rebuke amount to? He confesses that, upon that subject, there can be but one opinion. Why then, Sir, he either adopts the opinion of the honourable general or not. If he does adopt it, he gives us as strong an opinion against the conduct of France as can possibly be given. If he does not adopt it, why, then, all that we can say is, that there are two opinions. 'But what,' he asks, 'has Switzerland to do with the question?' It has this to do with it: the honourable general introduced the subject in this way; he contends that a power which is capable of such unprovoked aggression, and such perfidy, is the power that ought to be watched. But the honourable gentleman goes on to assert, that we have nothing to do with the case of Switzerland, nothing to do with France, nothing but with her power. Nothing but her power! as if that were little. He asks too, 'Where is the great difference between France under the Bourbons and under her present ruler?' Why, Sir, the honourable general inferred, from the conduct of France, that, with her growing power, she had a growing disposition to mischief. 'But is that power,' demands the honourable gentleman, 'greater now than it was last June?' Perhaps it is not, Sir; but her mischievous disposition is greater; and if I am asked to bring a proof of the truth of my assertion, I must bring the case of Switzerland. Sir, if I see a purposed contempt of the independence of a nation; if I see a perfidious disregard of the faith of treaties; if I see a power withdraw her assistance, only to return and entrap a country of freemen with greater cer-

* Ever since the year 1798, when Buonaparte had violently changed the old form of constitution in Switzerland, banished or destroyed all the ruling families, and contracted an alliance, offensive and defensive, between the French and Swiss republics, the latter had been in a state of servile dependence on France. In 1802 Buonaparte prepared for it a new constitution, which was received by the senate, but violently opposed in several of the smaller cantons, and especially in Schwytz, Uri, and Underwalden, and a civil war was the consequence. The existing government, which was completely subservient to the views of Napoleon, immediately appealed to him as their mediator. Napoleon having accepted the office, though with affected disinclination, quickly brought matters to a close. A French army of 30,000 men was immediately marched into Switzerland; all opposition crushed; the new constitution was established; and Switzerland became, in effect, a French province.

tainty; why then, I say, there has been a change, and a great change too, and that such a power we have a right to watch. 'But,' says the honourable gentleman, 'we have no right to make use of invectives against the first Consul of France.' I will abstain if I can; I say, if I can, because I feel that even a simple narrative may be construed into invective. With regard to the general question of a disposition to peace or war, I declare that I am as strongly and as sincerely for the preservation of peace as any man, and that I do not consider war as any remedy for the evils complained of. If a war spirit be springing up in this country, if a chivalrous disposition be observable, if a sentiment of indignation be rising upon the subject of the treatment of Switzerland, I for one shall contend that the treatment of Switzerland is no cause of war. I would therefore say, preserve peace if possible: peace if possible, because the effects of war, always calamitous, may be calamitous indeed, buckling, as we should be forced to do, all our sinews and strength to that power, in a contest with her upon such grounds. I repeat, therefore, peace if possible; but I add, resistance, prompt, resolute, determined resistance to the first aggression, be the consequences what they may. Influenced by these sentiments, I shall vote cordially and cheerfully for this large peace establishment; and it is because I shall vote for it that I think myself bound to state my reasons. Sir, some gentlemen seem to consider what they advance as so many axioms, too clear to need explanation or to require defence. But, when I vote for so large an establishment, I think myself not at liberty to bind such a burthen upon my constituents, without stating the grounds upon which I act, and the principles by which I am prompted. Sir, I have listened, with all the attention I am master of, to the different arguments that have been advanced in the present debate. One honourable gentleman, who spoke second,* appears to be a decided enemy to a great establishment, and the reasons he gave for his opposition, I confess, perfectly astonished me. Luckily, he has no rapid flippancy in his manner; his sentiments are delivered too soberly and sedately to be mistaken. I am sure I mean nothing disrespectful to that gentleman, who amply repays the attention that is paid to him. But he says, 'If ministers had only said to him that danger existed, he for one would have voted for the force proposed.' Does he doubt the danger? He complains that his Majesty's ministers do not state it precisely. But does he pretend that he does not see and feel it? Can any one look at the map of Europe and be blind to it? Can any one have a heart to resist apprehended injury, and say that we ought not to be prepared? 'But,' he asks, 'why raise only one hundred thousand men? You can never equal the military power of France, and, as you cannot, why stop at one hundred thousand? Why not raise one hundred and twenty, one hundred and thirty, or one hundred and forty thousand?' If this argument be worth anything, it applies equally to our raising only one thousand. Why, if we can never be equal to France, raise a man? Another gentleman, who spoke last, has

* Mr Bankes.

alluded to alliances, and I agree perfectly with him in what he advanced against making any pledges. He has alluded to the fate of the pledges made in the war of the succession, in the war of 1741; but, if he meant to be impartial, he need not have gone back so far; he need not have travelled beyond the last war; he might have mentioned the pledges then given; he might have recollected the pledge of never giving up the Netherlands; he might have recalled to our minds the pledge of obtaining indemnity for the past and security for the future; he might have dwelt upon the pledge of exhausting the last drop of our blood in the contest for religion, order, and civilised society, the *toto certatum corpore regni;* he might have reminded us of all these pledges made, and of all of them having been abandoned. He confesses his warmth of friendship for the late minister,* and he certainly never showed it more than in stopping so short with his historical narrative of pledges. The next excellent reasoning of the honourable gentleman who spoke second against the proposed vote, is that, in the first year of the war, there will be an immense army drawn upon the opposite coast, and therefore, now it is not necessary to be prepared. When the army is upon your shores, when the trumpet of the enemy sounds at your gates, then it is time to be prepared. Appearance of security, he contends, often gives the effect of security. If we have large armies, France will think we raise them through fear; if we do not have them, she will think that we feel ourselves perfectly secure. I have heard instances, Sir, where mounting wooden guns upon a fort has produced the same security as if there had been real ones. But unluckily, in this instance, for us, by our constitutional form of proceeding, our whole force must be known; we cannot pass upon an enemy wooden guns, and an army at Brentford. If we vote no force, an enemy will know we have none. 'But have no arms, throw away your guns,' is the advice of the honourable gentleman. Sir, when every house in my neighbourhood has been attacked and robbed by a gang of ruffians, how my having no arms is to save me from a visit from them, I must leave the honourable gentleman to explain. His next argument is, that it is unreasonable in us to believe that Buonaparte wishes to be at war with us; for he thinks the French have nothing to gain by invasion. Nothing to gain? What else have they to lose but that of which it has been said they have so much to spare, and what have they not to gain? Sir, I cannot but think this as unbecoming a sentiment as ever was uttered. But, 'it is unreasonable to think that the French wish to meddle with us.' Why, I protest I cannot explain. If, as has been said, they have felt our arms, they who have been everywhere else successful, must view the only power whose arms they have felt, with feelings of warm resentment, and with sentiments of mortified pride. But look at the map of Europe; there, where a great man (who, however, was always wrong on this subject) said he looked for France, and found nothing but a chasm. Look at that map now, and see nothing but France. It is in our

* Mr Pitt, who had been succeeded by Mr Addington in 1801.

power to measure her territory, to reckon her population, but it is scarcely within the grasp of any man's mind to measure the ambition of Buonaparte. Why, when all Europe bows down before him—why, when he has subdued the whole continent, he should feel such great respect for us, I am at a loss to discover. If, then, it be true, as I have stated, that his ambition is of that immeasurable nature, there are abundant and obvious reasons why it must be progressive—reasons much stronger than any that could have been used under the power of the Bourbons. They were ambitious, but it was not so necessary for them to feed their subjects with the spoils and plunder of war; they had the attachment of a long-established family applied to them; they had the effect and advantage of hereditary succession. But I see, in the very situation and composition of the power of Buonaparte, a physical necessity for him to go on in this barter with his subjects, and to promise to make them the masters of the world if they will consent to be his slaves. I see then, I repeat, this strong reason for his pursuing this system of policy. If that be the case, must not his most anxious looks be directed to Great Britain? Everything else is petty and contemptible compared with it. Russia, if not in his power, is at least in his influence—Prussia is at his beck—Italy is his vassal—Holland is in his grasp—Spain at his nod—Turkey in his toils—Portugal at his foot:—when I see this, can I hesitate in stating my feelings? still less can I hesitate in giving a vote that shall put us upon our guard against the machinations and workings of such an ambition? But it has been said, that it is possible he may mean nothing more than rivalry of commerce. Happy, Sir, shall I be, if such an idea enter into his head at all, much more if it form part of his plans. But I confess that I cannot see that it does. I mark him taking positions calculated to destroy our commerce, but I do not find him doing anything for the mutual benefit of the trade of the two countries. I see him anxious to take possession of Louisiana, and to use the ports of St Domingo to carry out the West India and Jamaica trade. I can conceive a possible case, in which such positions might be taken as to force us to surrender our commerce without a stroke. An ignorant observer may see two armies, and may say there is no war, because there is no battle; yet one of them may make such movements as to compel the other to surrender without striking a blow.

"Of the commercial talents of Buonaparte, I can be supposed to know but little; but, bred in camps, it cannot be imagined that his commercial knowledge can be very great; and, indeed, if I am rightly informed, he is proceeding in the old plan of heavy duties and prohibitions. But he would go a shorter way to work with us. The old country has credit, and capital, and commercial enterprise; and he may think, if he can subjugate us, that he can carry them off to France like so many busts and marbles. But he would find himself mistaken; that credit would wither under the gripe of power; that capital would sink into the earth, if trodden upon by the foot of a despot; that commercial enterprise would, I believe, lose all its vigour in the presence of an arbitrary government. No, Sir, instead of putting his nation

apprentice to commerce, he has other ideas in his head. My humble apprehension is, that, though in the tablet and volume of his mind there may be some marginal note about cashiering the King of Etruria,* yet, that the whole text is occupied with the destruction of this country. This is the first vision that breaks upon him through the gleam of the morning; this is his last prayer at night, to whatever deity he addresses it, whether to Jupiter or Mahomet,† to the goddess of battles, or the goddess of reason.‡ But, Sir, the only consolation is, that he is a great philosopher and philanthropist. I believe this hyper-philanthropy has done more harm than ever it did good. He has discovered that we all belong to the Western family. Sir, I confess I feel a sentiment of deep indignation, when I hear (I take it from report) that this scrap of nonsense was uttered to one of the most enlightened of the human race. To this family party I do not wish to belong. He may invite persons, if he please, to dinner, and, like Lord Peter, say that, 'this tough crust is excellent mutton.' He may toss a sceptre to the King of Etruria to play with, and keep a rod to scourge him in the corner; he may have thought at first his Cisalpine republic§ a fine growing child, and may have found it a rickety bantling; but I feel contempt for all this mockery. Let us, Sir, abstain from invective, only let us speak the truth. Why, Sir, what I have said is nothing but the truth. Let us be visiting acquaintance, but I do implore him not to consider us as one of the family. Perhaps, Sir, it is unnecessary for me to state any more reasons for voting for this large peace establishment. All I desire is, not to have it understood that, in stating my fears, I speak from a well-informed judgment. On that account it is that I say, do not go to war; on that account it is that I state my apprehensions as rational grounds for great vigilance, and for strong preparation. Sir, there are two other points pressed by several gentlemen, to which I beg leave to refer. I mean the fitness of the persons in power, and the spirit of the people. The power of the country consists in its army, its navy, and its finance, in the talent and integrity of its ministers, and, above all, in the spirit

* By the treaty of Luneville, concluded between Austria and France, on the 9th of February, 1801, Tuscany was taken from the Grand Duke Ferdinand of Austria, and given to Louis, son of the Duke of Parma, who had married a Princess of Spain, and who then assumed the title of King of Etruria.

† On his invasion of Egypt, in 1798, he issued a proclamation in which he professed his respect for God, the Prophet, and the Koran.

‡ In allusion to the establishment of the worship of the 'Goddess of Reason,' in 1793, and the abolition of the Christian religion by the revolutionary government, in whose employment Napoleon then was.

§ By the treaty of Campo Formio, in 1797, the Emperor of Austria acknowledged the independence of the Milanese and Mantuan states, under the name of the Cisalpine Republic, to which Buonaparte gave a constitution, on the model of France, himself appointing the members of the legislative committee and of the Directory, &c. In January, 1802, after signing the preliminaries of the peace of Amiens, Buonaparte procured himself to be appointed president, and proclaimed a new constitution.

of the people. Upon this second branch of the question, though I have said some things which may be considered as grateful to that party which may be denominated the war party, yet I fear I shall be compelled to state by and by some circumstances that may not be quite so agreeable to them. It is a matter of no importance to the house, perhaps, to know why I was absent on the two first days of the session. I was anxious to hear the part which men would take, and I do confess I never felt so much disgust at any circumstance, as to find, on the first day of the session, instead of a unanimous vote for vigilance and preparation, a call from some to give us back our places. The noble lord's friends may be divided into two classes: those who call for a change of ministers, and for war. And here I must say, Sir, for one, that I thank them for their frankness in stating what they have done, because their frankness is an antidote to the fury of their counsels. The noble lord says, 'We do not want to go to war; we only wish to have other persons in power;' the noble lord deals with the ingenuousness of youth, as I say; with the experience of age, according to others. But what should we get by this change? Would those persons he recommends have acted differently from the present ministers? Would they have gone to war for any of the events that have occurred since the peace? Would they have gone to war for the annexing of Piedmont to France?—for the Cisalpine republic?—for the invasion of Switzerland?* No, for none of these. They would have done as Ministers have done, but more vigorously; they would have shown more grumbling patience; they would have made wry faces; they would not have stood with their hands before them; no, but with their arms akimbo. What would they have got by this? Would they have obtained anything more by all this grudging and wincing? Would such a mode of conduct have become the character and dignity of the country? Sir, it is not to be inferred, because the right honourable gentleman opposite me did none of these things, that he felt no indignation. I learn from his Majesty's speech, every word of which I approve, that his ministers are determined not to be shut out of the continent. I say, Sir, I approve of the speech, because it satisfied me that a sense of wrong, and a resentment of injury, may live under moderate language. But these ministers, it seems, are the incapable gentlemen. Will gentlemen show us any act of base submission on their part? If they can—if they prove that they did any act with respect to Switzerland, and meanly retracted it afterwards, I will be the first to inveigh against them. But these gentlemen show us no such acts; they seem as if they considered the ministers, now the drudgery of signing the peace is done, as *functi officiis*, and as if they ought to go out; as if one was a mere goose-quill, and the other a stick of sealing wax, which are done with, and ought to be thrown under the table. We know that Touchstone says, as a good ground for quarrel, 'that he don't like the cut of

* The British government, on the appeal made to them for assistance by the Swiss patriotic party, despatched Mr Moore, who had acted as private secretary to the Marquis Cornwallis on the occasion of the treaty at Amiens, to negotiate an arrangement, but all negotiation was useless in opposition to force.

a certain courtier's beard.' Perhaps this capricious dislike cannot be better exemplified than by the sentiment expressed in the well-known epigram of Martial:—

" ' Non amo te, Sabidi, nec possum dicere quare,
Hoc tantum possum dicere, non amo te!'

The English parody may be more applicable to these gentlemen:—

" ' I do not like thee, Dr Fell,
The reason why I cannot tell;
But this, I'm sure, I know full well,
I do not like thee, Dr Fell.'

" It is fair, Sir, to say, that this English parody, so unfavourable to the doctor, proceeds from the mouth of a fair lady, who has privileges to like and dislike, which would ill become a member of this House. Sir, I contend that no solid reason has been offered to be urged against these Ministers. How, I would ask, has the right honourable gentleman forfeited the confidence of the people? and why are we told that there is but one man alone who can save the country? But it seems—and I must frankly confess that I was utterly astonished when I heard such an assertion made use of—that his Majesty's Ministers assumed the reins of government at a most inviting period. Sir, I defy any man to show me a period of greater difficulty. The right honourable gentleman who, in the chair of this House, had so amply deserved and secured the respect of every member in it, could not but have quitted it with feelings of regret. But the expeditions to the Baltic* and to Egypt† were prepared; true. Yet, was success certain? Was it not the act of chance, and the great skill shown by the noble admiral (Nelson) that brought the expedition to the Baltic to a favourable issue? Did the late Ministers conceal their fears with respect to the expedition to Egypt? That it was most glorious in its event, and that the country ought to bind the brows of the meanest soldier engaged in it with laurels, I am ready to allow. But it cannot be denied that, after the expedition had been off the coast of Italy, and was in Marmorice Bay, orders were sent to stop

* The expedition to the Baltic under Admiral Sir Hyde Parker and Vice-Admiral Nelson in 1801. By a confederacy between France and Russia, an embargo was suddenly laid on all English vessels in Russian ports; and, in order to assert, as was said, the independence of the seas, and to destroy the immense trade of England, a convention was signed between the northern powers, consisting of Russia, Sweden, and Denmark, by which they agreed to close their ports against British vessels and Prussia; and the kingdoms of Naples and Portugal afterwards joined the confederacy. All attempts at arrangement having failed, the expedition under Sir H. Parker and Nelson was sent out, which, after completely destroying the Danish fleet in the celebrated battle of Copenhagen, caused the confederacy of the northern powers to be dissolved, and obtained terms of peace highly favourable to this country.

† Under Sir Ralph Abercrombie, in March 1801, on the occasion of Mr Pitt refusing to ratify the treaty of El-Arish, which had been concluded by Sir Sydney Smith with General Kleber.

the expedition altogether. With respect to the negotiations for peace, their predecessors knew that the present Ministers would have to deal with men who, it might be supposed, would be glad of an occasion to retort the insolence of Lord Grenville's letter. If the enemy had parodied their letter as their only answer to us; if they had said, 'We will wait for experience and the evidence of facts with respect to the new Ministry;' if they had said, 'Restore that old Whig constitution which the former Ministers have so impaired,' we might have thought such conduct trifling, and beneath them, but we could not have questioned its fairness. Sir, though his Majesty's Ministers must have been prepared to expect humiliation, yet they made peace, I will venture to say, on terms comparatively more advantageous to the country than those that were offered at Lisle.* Of these Ministers, Sir, I know, also, that they have not renewed any of their predecessors' oppressive acts. But this, some gentlemen will contend, is a proof of their weakness and unfitness. Never, too, Sir, did the treasury interfere so little in the general election. This, again, may be advanced by some as an instance of their incapacity. Nay, the north was almost left to a member of the late administration. When, therefore, gentlemen talk in future of Mr Pitt's being the fittest person to save the country, they ought to add also the name of Mr Dundas. But what did these gentlemen expect from the present Chancellor of the Exchequer?† We treated him, when in the chair of this House, with the respect he merited. He has, I believe, Sir, over our present worthy Speaker,‡ the advantage in attitude; but did they expect that when he was Minister he was to stand up and call Europe to order? Was he to send Mr Colman, the serjeant-at-arms, to the Baltic, and order the northern powers to the bar of the House? Was he to see the powers of Germany scrambling like members over the benches, and say, 'Gentlemen must take their places?' Was he expected to cast his eye to the Tuscan gallery, and exclaim, that 'strangers must withdraw?' Was he to stand across the Rhine, and say, 'The Germans to the right, and the French to the left?' If he could have done all these things, I, for one, should always vote that the Speaker of the House should be appointed the minister of the country. But the right honourable gentleman has done all that a reasonable man could expect him to do. Sir, I confess I wish to know what Mr Pitt himself thinks. I should be glad to hear what his sentiments are of the call made for him—and loudly made too—in another place by a vigorous statesman. I well remember, Sir, and so do we all, the character he gave of the present administration. The justice of his character of the first Lord of the Admiralty,§ no man can question. Of the accuracy of his judgment with respect to the

* The negotiations for peace with France in 1797, at Lisle, went off, from the refusal of the French plenipotentiaries to treat on terms of mutual compensation, and their insisting on the restitution of all that had been taken from the allies of France in the war, by which England would have had to make large concessions without any return.

† Mr Addington. ‡ Sir John Mitford. § Lord St Vincent.

present Chancellor of the Exchequer, it does not become us to entertain a doubt. The noble Secretary of State* was better qualified for the situation than any man in the country, with an exception made, I believe, in favour of my honourable friend (Mr Fox) near me. Does Mr Pitt mean to retract that character? I cannot suppose he does. I must believe that he left, in his judgment, the best administration that could be left. I have heard some gentlemen attach to the present ministry the appellation of a mawkish mixture; but, if I were to compare them to anything, I should say, that Mr Pitt and the Ex-secretary of War,‡ acted as men fond of wine (which I cerainly do not mean to impute to them as a fault), and drinking a bottle of Tokay. Though you may take what appears to be the best, and leave only what seems to be the lees, yet, if you only pour a bottle of good white wine upon them, you have as good a bottle of Tokay as ever. Sir, I think the mixture as good and as wholesome to the constitution as it could have been. I am sure I hear with joy that it is not on account of ill health that the right honourable gentleman, to whom I have alluded, is absent. I repeat, Sir, when I see so many persons anxious about that gentleman, I am glad to hear that his health is re-established. But how, I would ask, can we, with any consistency, turn out the man who made the peace, to bring in the person who avowed his approbation of it? Sir, it is since that peace was made that gentlemen had voted a statue to Mr Pitt; but, whenever they erect that statue let them cover it with laurels, so as not to show its nose: yet, still a piece of the olive must go with it, for he approved and supported the peace. Sir, I cannot persuade myself to think he is playing a double game, or that he has retracted the opinion he delivered in this house; but everything should stand plain, everything should be explicit. I have heard of one person playing two different games at chess for two different persons at the same time; but I never heard of a person playing one of his hands against the other. I suspect, therefore, there has been some mistake in the telegraphic communication; that the political Philidor's game has been misunderstood; that his friends have displaced a knight and a castle, when they should only have taken two pawns; that they have made an attempt to checkmate the king, when they had no instructions for doing it.‡ Sir, I cannot forget the period when the

* Lord Hawkesbury. † Mr Windham.

‡ Mr Pitt resigned office in 1801, in consequence of the opposition he met with in the cabinet to his measures for extending the political privileges of the Roman Catholics of Ireland, which, from his expressed sentiments on the subject, they were led to expect from him after the union of that country with England had been effected. The King particularly refused his assent to the proposed policy, considering that he was precluded by his coronation oath from sanctioning it. It has been suggested, that, besides the Catholic question, which was the sole cause of resignation assigned by Mr Pitt himself, he might have been induced to allow the reins of government to devolve on others, in order that a peace with the Continent might, if possible, be arranged on terms more favourable than he and his party, from their known hostility to the French government, would have been able to effect. Others have assigned a less charitable cause for his resignation, alleging that his only object was to throw the odium of refusal of the ex-

august personage of the sovereign was held up as the only man who was against extending privileges to the Catholics in Ireland; and I cannot, therefore, brook the idea of calling that right honourable gentleman back to power, and forcing him upon the Crown. I expected, when I came into this house, to hear much said against Buonaparte, but I had not the slightest expectation of hearing anything against the prerogative of the Crown. Mr Pitt, the only man to save the country! No single man can save the country. If a nation depends only upon one man, it cannot, and, I will add, it does not, deserve to be saved; it can only be done by the Parliament and the people. Sir, I say, therefore, I cannot believe that there is a back and a fore-door to this Egerian grotto. We have all heard, I dare say, of a classical exhibition in this town, *the invisible girl.** Here, however, I hope we shall have no whisperings backwards and forwards, no speaking through tubes, no invisible agency. I hope, too, that we shall have it declared, as it ought to be, that these opinions, which have been rumoured about, are unfounded. I shall now address a few words to those gentlemen who would hurry us into war; and here, Sir, I must say, that of all persons living, the Ex-secretary of War is the last man who can consistently call out for war. He despised the warning voice of my honourable friend; he turned a deaf ear to his predictions, that we should only consolidate and strengthen the power of France. His answers always were, he should despise the power of France, could he but see jacobinism destroyed. Is it not destroyed?

> " 'Approach thou like the rugged Russian bear,
> The arm'd rhinoceros, or the Hyrcanian tiger—
> Take any shape but that, and my firm nerves
> Shall never tremble.'

" The right honourable gentleman's wishes are gratified; jacobinism is killed and gone, and by whom? By him who can no longer be called the child and champion of jacobinism—by Buonaparte. I remember to have heard jacobinism compared to Antæus, who gained strength at every throw: but Buonaparte proceeded like Hercules; he gave it a true fraternal hug, and strangled it. Did the French annex Piedmont? Did they enter Switzerland

pected Roman Catholic privileges on the shoulders of others, whom Mr Pitt afterwards individually supported in their administration, while, at the same time, his known constant supporters and partisans did all in their power to bring the new ministry into contempt, holding them up to the country as incapable; and this double game was supposed to be played in order that when the object was obtained for which office had been yielded to them, they might be easily removed without the country at all regretting their loss.

* This was an exhibition which, at the time, excited considerable curiosity. A girl, who was in a room adjoining the exhibition room, was enabled to answer all questions put to her by the public, by means of tin tubes, in which were inserted small mirrors at right angles which reflected every object in the exhibition room, so that, not only was the sound conveyed to her, but she was enabled to see every thing that was held up by the visitors, such as watches, &c.

with the Rights of Man? Did they talk of those rights when Buonaparte told the people of Italy they were a set of dolts and drivellers, and were unfit to govern themselves? But now the right honourable gentleman seems in a greater fright than ever. He seems as if he had rather have the old ghost back again. Most whimsically he wants to unite all parties against France—

"Black spirits and white,
Blue spirits and grey,"

all are welcome to him. The moderate jacobins he takes to his bosom; they were only misled by their feelings. The violent jacobins he appeals to as men of proud spirits. He wishes to sing '*Ca Ira*' to them, and to head them all. 'O! had I,' he sighs, 'but plenty of jacobins here!' But, on what principle would they carry on the war? If they were able to curtail the power of Buonaparte, would not their views increase, and would they ever stop without making an example of the regicide republic? If they will speak out fairly, will they not confess this? Will the country, then, for such a purpose consent to turn out the present Ministers? Sir, upon the spirit of the country I wish to say a few words. I have heard from one noble lord with regret, what I hope was but a slip, that the spirit of the country is worn out. I think that noble lord must retract that idea. Sir, I certainly looked to the rejoicings at the peace as an unmanly and irrational exultation. Do I rebuke the people for rejoicing at the blessings of peace? No, Sir, but for rejoicing without asking about the terms. Did they rejoice that we had gained Trinidad and Ceylon?* Would two farthing candles have been burnt less had we not obtained them? No, Sir; if they had believed that they had been fighting for civilised order, morality, and religion; and if, believing this they exulted in such a peace, then it proves that their spirit was worn out. But I allude to this, in order that the enemy may not be led into a mistake upon the subject. Sir, one of the disadvantages attending the present administration is, that they will not turn, when they are attacked by the last administration. They are hampered by the votes they gave for the war. But from the period of the allegations that it was a war for the Scheldt, I assert that it continued to be a war upon false pretences. The people were told that it was a war for religion and good order, and they found that peace was ready to be made at Lisle, without any reference to those causes. The right honourable gentleman says, 'What baseness, while religion was in their mouths, to consent to steal a sugar island!' It is true, Sir, though it comes a little extraordinarily from that man who was one of the cabinet ministers at the time of the negotiation at Lisle. It should appear as if there had indeed been great discord in the Cabinet; 'there never was greater,' says the honourable gentleman. They acted not merely like men in a boat, rowing different ways, but like men in the boat of a balloon. Up the Ex-secretary of War was ascending to the clouds, whilst Mr Dundas was opening the

* By one of the provisions of the treaty of Amiens, England agreed to restore all her conquests during the war except the islands of Trinidad and Ceylon.

valve and letting out the gas to descend; while one was throwing out ballast to mount to the most chivalrous heights, the other was attempting to let drop an anchor upon a West India island. Each of these ministers was suffered to have his favourite plan. The Ex-secretary of War was allowed to nibble at the coast of France, the War Secretary of State to make a descent upon a sugar island; and thus they went on till the letter from Lord Grenville—that letter never to be forgotten, and, I will add, never to be forgiven—made its appearance, and the people took a deep and settled disgust. Why did this not appear? And this, Sir, ought to be a lesson to us. The mouths of the people were shut and gagged, and the government were acting without knowing anything of their circumstances. Sir, in such circumstances, the integrity of their minds was disgusted, and they were glad to get rid of the war at any rate. Upon this subject I have dwelt the more particularly, because I wish Buonaparte not to mistake the cause of the joy of the people. He should know that if he commits any act of aggression against them, they will enter singly into the contest, rather than suffer any attack upon their honour and their independence. I shall proceed no further. I perfectly agree with my honourable friend, that war ought to be avoided, though he does not agree with me on the means best calculated to produce that effect. From any opinion he may express, I never differ but with the greatest reluctance. For him my affection, my esteem, and my attachment, are unbounded, and they will end only with my life. But, I think an important lesson is to be learnt from the arrogance of Buonaparte. He says 'he is an instrument in the hands of Providence—an envoy of God.' He says 'he is an instrument in the hands of Providence to restore Switzerland to happiness, and to elevate Italy to splendour and importance.' Sir, I think he is an instrument in the hands of Providence to make the English love their constitution the better; to cling to it with more fondness; to hang round it with truer tenderness. Every man feels, when he returns from France, that he is coming from a dungeon to enjoy the light and life of British independence. Sir, whatever abuses exist, we shall still look with pride and pleasure upon the substantial blessings we still enjoy. I believe too, Sir, that he is an instrument in the hands of Providence to make us more liberal in our political differences, and to render us determined, with one hand and heart, to oppose any aggressions that may be made upon us. If that aggression be made, my honourable friend will, I am sure, agree with me, that we ought to meet it with a spirit worthy of these islands; that we ought to meet it with a conviction of the truth of this assertion, that the country which has achieved such greatness, has no retreat in littleness; that if we could be content to abandon everything, we should find no safety in poverty, no security in abject submission. Finally, Sir, that we ought to meet it with a fixed determination to perish in the same grave with the honour and independence of the country."

The motion passed without a division.

Speech in opposition to the motion of Mr Pitt, for a Bill for raising and supporting an additional permanent military force.—18th June, 1804.

Mr Addington had resigned office on the 12th May preceding, and had been succeeded by Mr Pitt.

"To the arguments, Sir, which have been urged in support of the measure before the house, the right honourable gentleman (Mr Addington) who has just sat down has given such a full and fair reply, that I do not think it necessary to enter into the subject as I had otherwise intended. The objections to this bill have been so forcibly maintained by that right honourable gentleman, and he has put the subject upon such fair and constitutional grounds, that I should decline to trouble the house upon this occasion, if it were not for the observations of my right honourable friend (Mr Canning), who has not confined himself to the bill under consideration, but has thought proper to introduce matter not strictly relevant, but yet of infinitely more importance than the bill itself—I mean my right honourable friend's allusion to the degree of confidence to which the present administration is entitled. My right honourable friend stated, that he was not disposed to adulation towards his right honourable friend who sits near him (Mr Pitt), and for whom, no doubt, he entertains the most sincere respect and regard. I hope he will do me the justice to think, that I am equally incapable of adulation towards my right honourable friend on the same bench with me (Mr Fox). I certainly am no flatterer, although, in point of attachment to my right honourable friend, I will not yield to that which my right honourable friend on the opposite side can or does profess to feel for his right honourable friend beside him; with this difference, however, on my part, that my attachment to my right honourable friend on this side of the house is of a much longer standing—that it is the first, the strongest, and the only political attachment of my life. But my right honourable friend disclaims adulation towards his friend, and, indeed, he seems to me to have had no occasion to do so, for he certainly did not deal in it; on the contrary, he has taken occasion to pronounce upon the conduct of his right honourable friend one of the bitterest satires that could be well imagined. My right honourable friend expresses his surprise, that we who oppose this bill can contrive to co-operate, and that we can avoid quarrelling when we get into the lobby; but is it not equally, if not more a matter of surprise, that he can avoid quarrelling with some of his friends near him, to whom he has been so very lately in decided opposition, and particularly with the noble lord,* who appears now to have determined which of the 'two strings' he should put to his bow? [A laugh.] If my right honourable friend will look at those about him, he will find that the compliments and censures which he meant for the right honourable gentleman on the lower bench (Mr Addington), were applicable also to some of his present connexions. Whatever praise or condemnation applies to the one,

* Lord Castlereagh, President of the Board of Control, who retained the office he held under Mr Addington.

applies equally to the other, with this difference, that the compliment called forth by the retirement of the one from office, when the voice of parliament and the country called for it, is not deserved by the other, who still remains in power.* Some part of the administration of the right honourable gentleman on the lower bench I most cordially approved, and his intentions in every instance I respected, because I firmly believed them to be pure and honourable. I esteemed the motives which actuated his public conduct, because I was certain of his disposition, whatever might be the sentiments of some of his colleagues, to govern the country upon the principles of the constitution. I know that his acceptance of office was a sacrifice, and I feel that his retirement from it was a triumph. But did my right honourable friend, I would ask him, mean it as a compliment to the right honourable gentleman, that immediately upon his retirement from office, he started into an open, manly, and systematic opposition; or did he mean it as an indirect sarcasm upon the conduct of his right honourable friend? Did my right honourable friend mean to say, that when the right honourable gentleman resigned his situation, he did not offer an insidious support to his successor,† that he did not seat himself behind him for the purpose of availing himself of the first opportunity to push him out; that when a motion of impeachment was made against his successor, he did not attempt to suspend the judgment of the question by the shabby, shallow, pretext of moving the previous question? No! such has not been the conduct of the right honourable gentleman, and the line he has pursued will be entitled to commendation. What are we to think, what can my right honourable friend say, of that course of proceeding which I have described? a course which had nothing manly, consistent, or direct about it. In this conduct, however, my right honourable friend did not participate, and of course merits no part of the censure attached to it by every generous and liberal-minded man. My right honourable friend has given credit to the right honourable gentleman for retiring from office before he was forced out by actual opposition—for taking the hint from Parliament.‡ If he be serious in pronouncing this laudable, what can he think of the six members of the late cabinet who still continue in office, who consent to act with, and even subordinate to, the very right honourable gentleman who so lately treated them with contumely and contempt? If the behaviour of the one be manly, how are we to estimate the other? how are we to judge of the situation of that noble lord (Hawkesbury) whose conduct in office appears to have given such particular offence to my right honourable friend? But I

* Many members of Mr Addington's administration retained office under Mr Pitt. Thus Lord Eldon continued chancellor; Duke of Portland, president of the council; the Earl of Westmoreland, lord privy seal; Lord Castlereagh, president of the board of control; and the Earl of Chatham, master-general of the ordnance. Lord Hawkesbury removed from the foreign to the home department.

† See page 234.

‡ Mr Addington retired on his being able only to command majorities of 52 and 37, in large houses, and on ministerial measures.

derive some consolation from the language of my right honourable friend, for as he applauds so much the act of the right honourable gentleman, in having resigned his office when parliament and the country seemed to wish it, when he had in this house but a majority of thirty-seven, I have reason to hope, that as his right honourable friend had only a majority of twenty-eight on a former evening, which majority will, I think, be reduced this night, my right honourable friend will recommend to him an imitation of the gallant and dignified conduct of the right honourable gentleman on the lower bench—that he will advise him not to persevere any further with such a mean, decreasing majority, after having lost the confidence of all the independent part of parliament and the country. My right honourable friend, indeed, states that he would wish to see an administration formed upon a broader scale, and in this declaration I really believe him sincere. If he considers what his right honourable friend now is, and what he might have been, I am pretty sure that such must be his wish. I am also sure that my right honourable friend delivers his real sentiment when he states that he feels himself in a post of danger. I believe that he considers the administration to which he belongs as not at all likely to last; and I will go a step farther—I believe that neither himself nor his right honourable friend really think that it ought to last; for they must be aware that it is an arrangement which has excited discontent and complaint through every part of the country. It is an arrangement of such a nature that my right honourable friend thinks it necessary to offer something in the shape of an apology for the part he has taken in it, My right honourable friend has taken occasion, in some degree, to contrast his attachment to his right honourable friend at the head of administration, with my attachment to my right honourable friend beside me; but there is this difference between us, that I can never follow the same line as that which my right honourable friend has done this night, to excuse his acceptance of a high office under the administration of his right honourable friend.* I do not feel it necessary to enter into any justification of my attachment to my right honourable friend; for, although I do not find him holding one of the first offices in the government, I find him surrounded with honour; although I do not find him leading a cabinet, I see him followed by all that is independent in the rank, character, consequence, and population of the country. I see him restored to the friendship of all those good and great men from whom he has, though he never ought to have, been separated; or rather, I see those personages restored to him. In a word, I have the happiness to observe the public character of my right honourable friend placed on a more exalted eminence than it ever before stood on. An attachment to him, therefore, it cannot be any other than a source of the most gratifying pride to reflect upon. My right honourable friend, in the course of the justification which he

* Mr Canning was treasurer of the navy.

has attempted for his conduct in co-operating with his right honourable friend, has dwelt a good deal upon the happy event of the removal of what he termed the late ministers, but my right honourable friend seemed to forget that that removal was far from being complete. To be sure, some of those with whom my right honourable friend professed to have been dissatisfied, were removed. He was dissatisfied with the conduct of the department for foreign affairs, and therefore out goes Lord Hawkesbury; and sorry I am to perceive that that noble lord has put the seal to his own condemnation; being charged with mismanagement and incapacity, he consents to be degraded in order to make room for another noble lord,* who certainly has yet to prove his ability, who has at least no experience to recommend him. This removal must no doubt be a source of much mortification to those who may be intimately connected with the noble lord: but this alone was not enough to satisfy my right honourable friend, and to reconcile him to the administration. He disliked the admiralty, and therefore that silly, incapable person, Earl St Vincent, is removed; and his place is filled by that tried, experienced seaman, Lord Melville. [A laugh.] In the office of the war minister, also, my right honourable friend saw good ground for complaint, and therefore the noble lord (Hobart) who held that situation, is superseded by a noble lord who gallantly resigned the government of Ireland, because it was a time of war and trouble, and much disturbance was apprehended in that country. Under such circumstances, it is no wonder that my right honourable friend should express his regret that his right honourable friend has not better support; for all those being dismissed for detected, acknowledged incapacity, according to the language of my right honourable friend, of whom his right honourable friend spoke in such lofty terms of praise, none remain in office, but those six of whom his right honourable friend did not think worth while to utter one word in the way of commendation. But of the right honourable gentleman's praise much does not seem to be thought, and therefore it is, perhaps, that we have had no panegyric pronounced upon the qualifications of the persons just introduced into his cabinet. After the perfect knowledge of human nature which the right honourable gentleman has manifested, particularly in the expedition to Holland, and the representation with respect to some of the late ministers, his opinions of mankind do not appear to be held in any estimation, and therefore, no doubt, it is that the House has not heard one word from the right honourable gentleman as to the merits of his new colleagues. I dare say that this silence was in consequence of a previous stipulation. They most probably said to the right honourable gentleman, 'You may give us ribands, titles, pensions, places, or anything you like, but a character: do, for God's sake, save our names from the peril of your praise—for, if you praise us, both you and we shall be laughed at.' My right honourable

† Lord Harrowby, secretary for foreign affairs, *vice* Lord Hawkesbury.

friend has frequently said, 'Away with the cant of "not men but measures," for it is a frivolous notion, as it is not the harness, but the horses, which draw the carriage;' but I would ask my right honourable friend, what is to become of the harness and carriage with such horses as his right honourable friend has now engaged? There are six of them that are old, and six new*—a double set, to be sure. The former are part of that 'slow-paced, lumpish, awkward collection,' upon which my right honourable friend so severely commented in the discussion of Colonel Patten's motion. They of course can be of no use, and so the six new nags will have to draw not only the carriage, but those six heavy cast-off blacks along with it. [A laugh.] Now, if in such a situation my right honourable friend does not feel himself embarrassed, and anxious for the release of his right honourable friend and himself, he cannot have that feeling of dignity and solicitude for honourable reputation which I am willing to ascribe to him. Among the arguments advanced by my right honourable friend in favour of the bill before the house, there were some that struck me to be very extraordinary indeed. [Here Mr Sheridan, searching for his notes, found they were lost, which produced a laugh, and the honourable member observed, that his right honourable friend, he dared say, was not sorry that he had lost them.] My right honourable friend, observed the honourable member, complains that we should express our disappointment that the measure before the house is not equal to the expectation we entertained, and states that from the number of troops already existing, it was impossible to draw more from the martial resources of the country than this bill proposes to obtain; but my right honourable friend should recollect that the fault lies with those by whom our imaginations were raised so high. If we complain of disappointment, who raised our expectations? The right honourable gentleman, in the course of his opposition to the late minister, held forth such high promises—talked of what he would do if in office, that he would submit a measure of vast importance, &c.—that it was impossible not to have our curiosity and expectations strongly excited; but after all this prodigious parade of means in contemplation for the increase of our public force, what do we see? Instead of plans at all promising efficiency, instead of looking for an armed Minerva from the brain of this Jupiter, we see a puny, rickety bantling, which, after being sent to the parish nurse, does not appear to have gristle or bone ever to attain the age of manhood. In truth, I cannot suppose that the right honourable gentleman himself thinks that this bill will procure men. The only object seems to be to raise a tax upon the landed interest, to inflict penalties and enact forfeitures. The right honourable gentleman only proposes to levy a tax in a novel way. If, by such a system,

* The six new members of the administration were Mr Pitt, Lord Melville, first lord of the admiralty; Lord Harrowby, secretary for foreign affairs; Lord Mulgrave, chancellor of the duchy of Lancaster; and Sir Evan Nepean, chief secretary for Ireland.

men should really be had, I am persuaded that the right honourable gentleman would be more surprised than any other man in the country; that he would feel as much astonished as he lately was at the wonderful discovery, that but few balloted men gave personal service. Even supposing that the proposed number of men could be recruited, where, I would ask, are six or seven thousand persons to be found qualified to officer them? The right honourable gentleman must know that the thing is impossible. But the mode suggested to discipline those corps is really ludicrous. The idea of attaching one battalion to another is not unlike that of throwing a young woman in the way of an old man for the purpose of courtship, in the hope that, after the opportunity of what is commonly termed 'keeping company,' they will 'come together,' matrimony must be the consequence. Absurd as this may seem, it is not more so than that such a connexion as that proposed in this bill, between a battalion of regulars and one of the new levies, can tend to promote or preserve discipline. It is ridiculous to talk of discipline in a corps where, as in the new levies, the officers will be urged to ask favours of their men. If a man belonging to the regulars shall be found tippling with any of the new levies, he can plead that he was endeavouring to prevail on the other to enlist for general service—that he was only employed in endeavouring to forward the views of government. At such irregularities as these, officers must connive, or the enlistment from among those new levies will not be productive. From an army thus constituted and so employed, what evils are not to be apprehended! So fully convinced am I of the mischief that must result from it as to think that, if the bill should be adopted, the most appropriate title for it would be 'a bill for the destruction of military discipline.' In considering the means of providing for the defence of the country, I am sorry to perceive that gentlemen, whose opinions upon other occasions I most sincerely respect, should look so much, or rather entirely, to the extension of our regular army. With respect to the army, however, I wish to observe, that in my opinion men should be enlisted for that service not only on terms limited as to time, but as to place. The latter regulation would tend to save the lives of many soldiers, while the policy of the former is so generally acknowledged, and has been so often discussed, that the surprise is, that ministers hesitate to act upon it. Upon this question, as to the augmentation of our regular army, I cannot forbear to say, that I always look upon such augmentation with jealousy; I would not risk the liberties of the country, by the enlargement of our standing army. If I were asked whether I would not rather trust our defence in the field against the attack of a foreign foe to regular troops, I would immediately answer in the affirmative; still, however, keeping in view the compromise between difficulties, the necessity of securing our freedom against the influence and power of a large standing army, I would have our volunteers and militia aided by a due proportion of the regular army. The people of this country are competent to their own defence, and are ready to take the tone from

those above them. They have regard for the high station which freemen may be supposed to feel; they have none of the slavish attachment to clans, but they look up to their superiors—and I use this word in its liberal sense—they look up to you, their superiors, with confidence, because you do not look down on them with insult. Give, then, to such a people proper example and encouragement, and you will not have any occasion to look for a large standing army to defend your country. The people of England know the value of the objects for which they have to contend. They feel that, from the constitution of the society in which they live, there is nothing of honour, emolument, or wealth, which is not within the reach of a man of merit. The landlord, the shopkeeper, or mechanic, must be sensible that he is contending not merely for what he possesses, but for everything of importance which the country contains; and I would call on the humblest peasant to put forth his endeavours in the national struggle to defend his son's title to the great seal of England. Acting upon this plan, employing proper means to animate the country, would render it unnecessary to hire an army to defend us or to resist any enemy. It is because I am satisfied of this fact—because I know that in this important conjuncture, which so strongly demands the valour of the brave, the vigour of the strong, the means of the wealthy, and the counsels of the wise, we could obtain all that is requisite by operating judiciously upon the character of the people, that I object to the frequent call for an increase of our regular army, as I know that such increase must invest the executive government with a power dangerous to the existence of liberty. I like an army of the people, because no people were ever found to commit a *felo de se* upon their own liberty: but I dislike a large standing army, because I never knew popular liberty in any state long to survive such an establishment. It is upon these grounds that I disapprove of the sentiments so often urged as to the augmentation of the regular army, and particularly by an officer* whose information upon military subjects is, no doubt, entitled to the utmost respect; but, whatever may be his information and experience upon military topics, if he had the ability of the Archduke Charles, until he shall look at the whole of the subject, until he shall examine it as a statesman, with a mixed attention to the rights of the people and the military defence of the country, I cannot defer to his opinions. With regard to the principles upon which the present administration is formed, I shall conclude with a few observations. The cause of the exclusion,† which is so much and so justly complained of, we are all

* General Maitland.

† Mr Sheridan alluded to the exclusion of Mr Fox from the administration. At the retirement of Mr Addington, Mr Pitt had desired to have the co-operation of Mr Fox, in forming a strong administration, so necessary at that critical period; but through the personal antipathy of the King to Mr Fox, this coalition was rendered impossible; and in consequence of his exclusion, Lord Grenville and his party refused to take office with Mr Pitt.

tolerably well able to conjecture; but it would be, I am aware, indecorous to describe it in this house. I know it would be unparliamentary to introduce into debate any particular allusion to this circumstance. Of the personage,* however, to whom it refers, I cannot speak from any particular knowledge; but of him† who is next in rank and consequence, I can say, that that illustrious personage, whose name I know my duty too well to mention, who stood forward at the commencement of the war, displaying a noble example of his wish to promote unanimity, to rally all parties round the standard of the country, entertains no political prejudice against any public man—though, God knows, he has had much to forgive. Far, however, from indulging resentment, I am sure that he would be forward to accept, to call for the services of any political character who could contribute, in this great crisis, to the safety of the empire.

On a division, the motion was carried by 265 to 223.

LIST

OF

MEMBERS OF THE ADMINISTRATIONS DURING THE REIGN OF GEORGE III.

	FIRST LORDS OF THE TREASURY.	CHANCELLORS OF THE EXCHEQUER.
1759. Dec. 22.	T. H. Pelham, Duke of Newcastle	Hon. H. B. Legge
1761. Mar. 12.	Do. do.	William, Viscount Barrington
1762. May 29.	John, Earl of Bute	Sir Francis Dashwood, Bart., afterwards Lord le Despenser
1763. April 16.	Hon. George Grenville	Hon. George Grenville
1765. July 13.	Charles, Marquis of Rockingham	William Dowdeswell, Esq.
1766. Aug. 2.	Augustus Henry, Duke of Grafton	Hon. Charles Townsend
1767. Sept. 12.	Do. do.	William, Lord Mansfield
1767. Dec. 1.	Do. do.	Frederick, Lord North
1768. Dec. 31.	Do. do.	Do. do.
1770. Feb. 10.	Frederick, Lord North	Do. do.
1773. Jan. 9.	Do. do.	Do. do.
1774. Mar. 12.	Do. do.	Do. do.
1777. June 5.	Do. do.	Do. do.
1778. Dec. 14.	Do. do.	Do. do.
1780. Sept. 6.	Do. do.	Do. do.
1782. Mar. 27.	Charles, Marquis of Rockingham	Lord John Cavendish
July 13.	William, Earl of Shelburne	Hon. William Pitt
1783. April 5.	William Henry, Duke of Portland	Lord John Cavendish
Dec. 27.	Right Hon. William Pitt	Right Hon. William Pitt
1786. Sept. 16.	Do.	Do.

* King George the Third. † The Prince of Wales.

1789.	April 8.	Right Hon. William Pitt . . Right Hon. William Pitt.
1791.	June 10.	Do. . . . . Do.
1793.	June 20.	Do. . . . . Do.
1794.	May.	Do. . . . . Do.
1797.	July.	Do. . . . . Do.
1800.	July.	Do. . . . . Do.
	Nov.	Do. . . . . Do.
1801.	Mar. 7.	Right Hon. Henry Addington . . Right Hon. Henry Addington
1802.	July.	Do. . . . . Do.
1804.	May 12.	Mr. Pitt . . . . . Mr. Pitt
1806.	Feb. 3.	Lord Grenville . . . . . Lord Henry Petty
1807.	March.	Duke of Portland . . . . . Mr. Spencer Perceval
1809.	October.	Mr. Perceval . . . . . Mr. Perceval
1812.	June.	Lord Liverpool . . . . . Mr. Vansittart

PRINCIPAL SECRETARIES OF STATE.

1757.	June 30.	William Pitt, Esq., afterwards Earl of Chatham
1761.	Mar. 25.	John, Earl of Bute, vice Lord Holderness
	Oct. 9.	Charles, Earl of Egremont, vice Mr. Pitt
1762.	May 29.	Hon. G. Grenville, vice Lord Bute
	Oct. 14.	George, Earl of Halifax, vice Mr. Grenville
1763.	Sept. 9.	John, Earl of Sandwich, vice Lord Egremont
1765.	July 12.	Augustus Henry, Duke of Grafton, vice Lord Halifax
		Hon. Henry Seymour Conway, vice Earl of Sandwich
1766.	May 23.	Charles, Duke of Richmond, vice Duke of Grafton
	Aug. 2.	William, Earl of Shelburne, vice Duke of Richmond
1768.	Jan. 20.	Thomas, Viscount Weymouth, vice Hon. Henry Seymour Conway
		Wills, Earl of Hillsborough (Colonies)
	Oct. 21.	Thomas, Viscount Weymouth, vice Earl of Shelburne
1770.	Dec. 19.	William Henry, Earl of Rochford, vice Lord Weymouth
1771.	Jan. 22.	John, Earl of Sandwich, vice Earl of Rochford
		George, Earl of Halifax, vice Earl of Sandwich
	June 12.	Henry, Earl of Suffolk and Berkshire, vice Lord Halifax
1772.	Aug. 14.	William, Earl of Dartmouth, vice Earl of Hillsborough (Colonies)
1775.	Nov. 10.	Thomas, Viscount Weymouth, vice Lord Rochford
		Lord George Sackville Germaine, afterwards Viscount Sackville, vice Lord Dartmouth (Colonies)
1779.	Oct. 27.	David, Viscount Stormont, vice Lord Suffolk
	Nov. 24.	Wills, Earl of Hillsborough, vice Lord Weymouth
1782.	Feb. 24.	Welbore Ellis, Esq., vice Lord Germaine (Colonies)
	Mar. 27.	William, Earl of Shelburne, vice Lord Stormont
		Hon. Charles James Fox, vice Lord Hillsborough
	July 13.	Thomas Townsend, Esq., vice Mr. Fox
		Thomas, Lord Grantham, vice Lord Shelburne
1783.	April 2.	Frederick, Lord North, vice Lord Grantham (Home)
		Hon. Charles James Fox, vice Mr. Townsend (Foreign)
	Dec. 19.	George, Earl Temple, vice Mr. Fox (Foreign)
	Dec. 23.	Thomas, Lord Sydney, vice Lord North (Home)

Dec. 23. Francis, Marquis of Carmarthen, vice Earl Temple (Foreign)
1789. June. William Wyndham Grenville, Esq., vice Lord Sydney (Home)
1791. June. Right Hon. Henry Dundas (Home)
May. Lord Grenville (Foreign)
1794. July 11. Duke of Portland (Home)
July. Right Hon. Henry Dundas (War and Colonies)
1801. February. Robert Banks, Lord Hawkesbury, afterwards Earl of Liverpool (Foreign)
March. Robert, Lord Hobart, afterwards Earl of Buckinghamshire (War and Colonies)
July 30. Thomas, Lord Pelham (Home)
1804. May. Lord Harrowby (Foreign)
Lord Hawkesbury (Home)
Earl Camden (Colonial)
1805. Jan. 12. Lord Mulgrave (Foreign)
July 10. Viscount Castlereagh (Colonial)
1806. Feb. 3. Charles James Fox (Foreign)
Earl Spencer (Home)
W. Windham (Colonial)
1807. March. George Canning (Foreign)
Lord Hawkesbury (Home)
Viscount Castlereagh (Colonial)
1809. October. Marquis Wellesley (Foreign)
Hon. Richard Ryder (Home)
Lord Liverpool (Colonial and War)
1812. June. Viscount Castlereagh (Foreign)
Viscount Sidmouth (Home)
Earl Bathurst (Colonial)

SECRETARIES AT WAR.

1760. Viscount Barrington
1761. C. Townshend
1763. W. Ellis
1765. Viscount Barrington
1778. C. Jenkinson
1782. J. Townshend
Sir George Younge
1783. Sir R. Fitzpatrick
1784. Sir George Younge
1794. W. Windham
1801. C. Yorke
1803. C. Bathurst
1804. William Dundas
1806. R. Fitzpatrick
1807. Sir James Pulkney
1809. Lord Palmerston

TREASURERS OF THE NAVY.

1760. George Grenville
1762. Lord Barrington
1765. Lord Howe
1770. Sir G. Elliott
1777. W. Ellis
1782. J. Barré
H. Dundas
1783. C. Townshend
1783. Henry Dundas
1801. D. Ryder
1803. G. Tierney
1804. G. Canning
1806. R. B. Sheridan
1807. G. Rose
1818. J. Robinson

LORD HIGH CHANCELLORS.

1757. Sir Robert Henley, Kt., Lord Keeper, created Lord Henley, 1760
1764. Jan. 16. Ditto, made Lord Chancellor, and created Earl of Northington, May 19

1766. July 30. Charles, Lord Camden
1770. Jan. 17. Hon. Charles York, created Lord Morden, died next day, and the Great Seal was then put in commission
1771. Jan. 23. Henry, Lord Apsley, afterwards Earl Bathurst
1778. June 2. Edward, Lord Thurlow
1783. April 9. In commission
Dec. 23. Edward, Lord Thurlow
1792. June 15. In commission
1793. Jan. 28. Alexander, Lord Loughborough, created Earl of Rosslyn in 1801.
1801. April 14. John, Lord Eldon
1806. Feb. 7. Lord Erskine
1807. April 1. Lord Eldon

ATTORNEY-GENERALS.

1757. July 1. Sir C. Pratt, afterwards Lord Camden
1762. Jan. 25. Hon. Charles Yorke
1763. Dec. 16. Sir Fletcher Norton, Kt., afterwards Lord Grantley
1765. Aug. 25. Hon. Charles Yorke
1766. William de Grey, afterwards Lord Walsingham
1771. Jan. 23. Edward Thurlow, afterwards Lord Thurlow
1778. June 16. A. Wedderburn, afterwards Lord Loughborough
1780. July 11. James Wallace, Esq.
1782. April 20. Lloyd Kenyon, Esq.
1783. May 6. James Wallace, Esq.
Nov. 18. John Lee, Esq.
Dec. 26. Lloyd Kenyon, Esq.
1784. Mar. 30. R. Pepper Arden, Esq., afterwards Lord Alvanley
1788. June 28. Sir A. Macdonald
1793. Feb. 13. Sir John Scott
1799. Sir John Milford
1801. Feb. 21. Sir Edward Law, afterwards Lord Ellenborough
1802. April. Hon. Spencer Perceval
1806. Feb. 3. Sir Arthur Pigot
1807. April. Sir Vicary Gibbs
1812. June 27. Sir T. Plumer
1813. May 4. Sir W. Garrow
1817. May. Sir Saml. Shepherd
1819. Sir Robert Gifford

SOLICITOR-GENERALS.

1756. Nov. 6. Hon. Charles Yorke
1761. Dec. 14. Fletcher Norton, Esq.
1763. Nov. William de Grey, Esq.
1766. Aug. Edward Willes, Esq.
1767. Dec. 23. Josh. Dunning, Esq.
1770. March. Edward Thurlow, Esq.
1771. Jan. 23. Alexander Wedderburn, Esq., afterwards Lord Loughborough
1778. June 16. James Wallace, Esq.
1780. Sept. 1. James Mansfield, Esq.
1782. April 20. John Lee, Esq.
July 20. Richard Pepper Arden, Esq.
1783. Nov. 18. James Mansfield, Esq.
Dec. 26. Richard Pepper Arden, Esq.
1784. April 7. Arch. Macdonald, Esq.
1788. June 28. Sir John Scott, afterwards Lord Eldon in 1799
1793. Feb. 13. Sir John Mitford, afterwards Lord Redesdale
1799. Sir William Grant
1801. Hon. Spencer Perceval
1802. April. Sir Thomas Manners Sutton
1805. Sir Vicary Gibbs
1806. Feb. 3. Sir Samuel Romilly
1807. April. Sir Thos. Plumer
1812. June 27. Sir Wm. Garrow
1813. May 4. Sir Robert Dallas
1814. Sir Saml. Shepherd
1817. May. Sir Robert Gifford
1819. Sir John Singleton Copley

THE

MODERN ORATOR.

THE SPEECHES

OF

LORD ERSKINE.

LONDON:
AYLOTT AND JONES, 8, PATERNOSTER ROW,
AND ALL BOOKSELLERS.

1846.

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SPEECHES OF LORD ERSKINE.

The Honourable Thomas Erskine was the third and youngest son of Henry David, Earl of Buchan, and was born in Scotland, in 1750. In 1764, he entered the navy, but abandoned the service four years afterwards, and obtained a commission in the first regiment of foot, which regiment he accompanied to Minorca, from whence he returned to England in 1772. At the earnest desire of his mother, Mr. Erskine threw up his commission, and, applying himself to the study of the law, became a member of Lincoln's Inn, and at the same time entered Trinity College, Cambridge, as a fellow-commoner, for the purpose of taking his degree, to which he was entitled by birth, and thereby reducing the number of terms required by the rules of the Inn, to be kept by students previously to being called to the bar. He diligently applied himself to his professional studies, in the chambers of Mr. Buller, one of the most celebrated special pleaders of the time; and afterwards, on Mr. Buller being raised to the bench, he became the pupil of Mr. Wood. In Trinity term, 1778, Mr. Erskine was called to the bar, where fortune befriended him, by affording him an early opportunity of distinguishing himself; and his rise was so peculiarly rapid, that, after being scarcely five years at the bar, a patent of precedence was granted to him on the suggestion of Lord Mansfield. In the same year (1783), he entered parliament as member for Portsmouth through the influence of Mr. Fox, in the room of Sir William Gordon, who was induced to resign his seat for the purpose of Mr. Erskine's return; and shortly afterwards he received the appointment of Attorney-General to the Prince of Wales, but of which office he was shamefully deprived in 1792 for his defence of Thomas Paine, against whom an information had been filed, for his violent attack on the government and constitution in his noted work called "The Rights of Man." As a reparation for this injustice, Mr. Erskine was appointed by the Prince of Wales, in 1802, Chancellor of the Duchy of Cornwall. During the administration of Mr. Addington, the office of Attorney-General to the King was offered to him, but he declined it in deference to the wishes of the Prince, at whose instance, according to Mr. Erskine's own account, he was in 1806 made Lord Chancellor, and created Baron Erskine, of Restormel Castle, in the county of Cornwall. In 1807 he went out of office on the dissolution of the ministry, and seldom afterwards appeared in public. He died on 17th November, 1823, at Almondale, near Edinburgh, and was buried at Uphall church. He was twice married, and had issue, three sons and five daughters, by his first wife.

The style of Lord Erskine's eloquence has been universally admired for its purity, simplicity, and energy, and its complete freedom from all vulgarism, and is regarded as the model of serious forensic oratory; his addresses bear on them the stamp of sincerity and honesty, and to this may be in a great measure attributed his great influence and success with juries.

Speech on showing cause against a Rule for an Information against Captain Baillie, for libel, 24th November, 1778.

Captain Baillie, who was Lieutenant-Governor of Greenwich Hospital, considering that great abuses existed in the administration of the charity, and, amongst others, that those whose duty it was, from the offices they filled, to observe the due performance of the contracts for the supply of the hospital, were themselves interested in them, much to the prejudice of the charity, had on various occasions presented petitions on the subject to the Directors and Governors of the hospital, and to the Lords of the Admiralty; but finding that they received no attention, he, as a last resource, drew up a formal statement of the case, and caused it to be printed and distributed among the General Governors of the hospital. In this pamphlet, after setting forth the alleged grievance of the contracts being submitted to interested parties for approval, he complained bitterly of lucrative situations in the hospital (designed exclusively for seamen), being filled by landsmen, and insinuated that they were placed there by the Earl of Sandwich, the First Lord of the Admiralty, to serve his own election purposes; and in the heat of his zeal for the exposure of what he considered as gross abuses, he severely reprobated the conduct of many individuals by name, and, among the number, the First Lord of the Admiralty himself. There is no doubt that Captain Baillie was actuated by an honest desire to promote the interest of the charity, which he considered he was bound to protect, and not by any desire to prejudice the individuals of whom he complained, in the eyes of the public; since, instead of publishing his pamphlet generally, he confined its circulation exclusively to the General Governors of the hospital, whose duty it was to investigate the charges preferred. Shortly after the appearance of the pamphlet, Captain Baillie was suspended from office, by the direction of the Board of Admiralty; and the individuals who had been personally attacked applied, in Trinity term, 1778, to the Court of King's Bench, for a rule for a criminal information for libel. This rule coming on for argument in the succeeding Michaelmas term, Captain Baillie's leading counsel first addressed the court in opposition, on the 23rd November, and the court having adjourned till the 24th, Mr. Erskine on that day rose from one of the back benches, and, continuing the argument against the rule, made the following speech. It may be observed, that Mr. Erskine had been only called to the bar on the last day of the preceding term, and it is believed that his speech on this occasion was the first he ever delivered in court.

"My Lord,

"I am likewise of counsel for the author of this supposed libel; and if the matter for consideration had been merely a question of private wrong, in which the interests of society were no further concerned than in the protection of the innocent, I should have thought myself well justified, after the very able defence made by the learned gentlemen who have spoken before me, in sparing your lordship, already fatigued with the subject, and in leaving my client to the prosecutor's counsel and the judgment of the court.

"But upon an occasion of this serious and dangerous complexion, when a British subject is brought before a court of justice only for having ventured to attack abuses, which owe their continuance to the danger of attacking them; when, without any motives but benevolence, justice, and public spirit, he has ventured to attack them though supported by power, and in that department, too, where it was the duty of his office to detect and expose them; I cannot relinquish the high privilege of defending such a character;—I will not give up even my small share of the honour of repelling and of exposing so odious a prosecution.

"No man, my lord, respects more than I do the authority of the laws, and I trust I shall not let fall a single word to weaken the ground I mean to tread, by advancing propositions which shall oppose or even evade the strictest rules laid down by the court in questions of this nature.

"Indeed, it would be as unnecessary as it would be indecent; it will be sufficient for me to call your lordship's attention to the marked and striking difference between the writing before you, and I may venture to say almost every other, that has been the subject of argument on a rule for a criminal information.

"The writings, or publications, which have been brought before this court, or before grand juries, as libels on individuals, have been attacks on the characters of private men, by writers stimulated sometimes by resentment, sometimes, perhaps, by a mistaken zeal; or they have been severe and unfounded strictures on the characters of public men, proceeding from officious persons taking upon themselves the censorial office, without temperance or due information, and without any call of duty to examine into the particular department, of which they choose to become the voluntary guardians:—a guardianship which they generally content themselves with holding in a newspaper for two or three posts, and then, with a generosity which shines on all mankind alike, correct every department of the state, and find, at the end of their lucubrations, that they themselves are the only honest men in the community. When men of this description suffer, however we may be occasionally sorry for their misdirected zeal, it is impossible to argue against the law that censures them.

"But I beseech your lordship to compare these men and their works, with my client, and the publication before the court.

"*Who is he?—What is his duty?—What has he written?—To whom has he written?—And what motive induced him to write?*

"He is Lieutenant-Governor of the Royal Hospital of Greenwich,—a palace built for the reception of aged and disabled men, who have maintained the empire of England on the seas, and into the offices and emoluments of which, by the express words of the charter,* as well as by the evident spirit of the nstitution, no landmen are to be admitted.

"*His duty*—in the treble capacity of Lieutenant-Governor, Director, and a General Governor, is, in conjunction with others, to watch over the internal economy of this sacred charity; to see that the setting days of these brave and godlike men are spent in comfort and peace, and that the ample revenues, appropriated by this generous nation to their support, are not perverted and misapplied.

"*He has written*, that this benevolent and politic institution has degenerated from the system established by its wise and munificent founders;—that its governors consist indeed of a great number † of illustrious names and reverend characters, but whose different labours and destinations in the most important offices of civil life rendered a deputation indispensably necessary for the ordinary government of the Hospital;—that the difficulty of convening this splendid corporation had gradually brought the management of its affairs more particularly under the direction of the Admiralty;—that a new charter has been surreptitiously obtained, in repugnance to the original institution, which enlarges and confirms that dependence;—that the present First Lord of the Admiralty (who, for reasons sufficiently obvious, does not appear publicly in this prosecution) has, to serve the base and worthless purposes of corruption, introduced his prostituted freeholders of Huntingdon into places destined for the honest freeholders of the seas;—that these men (among whom are the prosecutors) are not only landmen, in defiance of the charter, and wholly dependent on the Admiralty in their views and situations, but, to the reproach of all order and government, are suffered to act as Directors and Officers of Greenwich, while they themselves hold the very subordinate offices, the control of which is the object of that direction;‡—and inferring from thence (as a general proposition) that men in such situations cannot, as human nature is constituted, act with that freedom and singleness which their duty requires, he justly attributes to these causes the grievances which his gallant brethren actually suffer, and which are the generous subject of his complaint.

"He has written this, my lord, not to the public at large, which has no jurisdiction to reform the abuses he complains of; but to those only whose express duty it is to hear and to correct them; and I trust they will be

* The words of the charter are—"Provided that all officers to be employed in the said Hospital be seafaring men, or such who have lost their limbs or been otherwise disabled in the sea service."

† Nearly 200; including the chief officers of State, the Archbishops of Canterbury and York, the Judges, Lord Mayor and Aldermen of London, and the principal public officers.

‡ In allusion to the persons filling the offices of superintendents of the contracts for the supply of the Hospital being themselves interested therein.

solemnly heard and corrected. He has not published, but only distributed his book among the governors, to produce inquiry, and not to calumniate.

"*The motive which induced him to write*, and to which I shall by and by claim the more particular attention of the court, was to produce reformation —a reformation which it was his most pointed duty to attempt, which he has laboured with the most indefatigable zeal to accomplish, and against which every other channel was blocked up.

"My lord, I will point to the proof of all this: I will show your lordship that it was his duty to investigate—that the abuses he has investigated do really exist, and arise from the ascribed causes—that he has presented them to a competent jurisdiction, and not to the public—and that he was under the indispensable necessity of taking the step he has done to save Greenwich Hospital from ruin.

"Your lordship will observe, by this subdivision, that I do not wish to form a specious desultory defence: because, feeling that every link of such subdivision will in the investigation produce both law and fact in my favour, I have spread the subject open before the eye of the court, and invite the strictest scrutiny. Your lordship will likewise observe by this arrangement, that I mean to confine myself to the *general* lines of his defence; the various affidavits have already been so ably and judiciously commented on by my learned leaders, to whom I am sure Captain Baillie must ever feel himself under the highest obligations, that my duty has become narrowed to the province of throwing his defence within the closest compass, that it may leave a distinct and decided impression.

"And first, my lord, as to its being his *particular duty* to inquire into the different matters which are the subject of his publication, and of the prosecutors' complaint: I believe, my lords, I need say little on this head to convince your lordships, who are yourselves Governors of Greenwich Hospital, that the defendant, in the double capacity of Lieutenant-Governor and Director, is most indispensably bound to superintend everything that can affect the prosperity of the institution, either in internal economy or appropriation of revenue; but I cannot help reading two copies of letters from the Admiralty in the year 1742—I read them from the publication, because their authenticity is sworn to by the defendant in his affidavit—and I read them to show the sense of that board with regard to the right of inquiry and complaint in all officers of the Hospital, even in the departments not allotted to them by their commissions.

"'*To Sir John Jennings, Governor of Greenwich Hospital.*

"'Admiralty Office, April 19, 1742.

"'SIR,—The Directors of Greenwich Hospital having acquainted my Lords Commissioners of the Admiralty, upon complaint made to them that the men have been defrauded of part of their just allowance of broth and pease-soup, by the smallness of the pewter dishes, which, in their opinion, have been artificially beaten flat, and that there are other frauds and abuses

attending this affair, to the prejudice of the poor men; I am commanded by their lordships to desire you to call the officers together in council, and to let them know, that their lordships think them very blameable for suffering such abuses to be practised, which could not have been done without their extreme indolence in not looking into the affairs of the Hospital; that their own establishment in the Hospital is for the care and protection of the poor men, and that it is their duty to look daily into everything, and to remedy every disorder; and not to discharge themselves by throwing it upon the under-officers and servants; and that their lordships, being determined to go to the bottom of this complaint, do charge them to find out and inform them at whose door the fraud ought to be laid, that their lordships may give such directions herein as they shall judge proper.

"'I am, Sir, your most obedient servant,

"'THOS. CORBET.'

"'*To Sir John Jennings, Governor of Greenwich Hospital.*

"'Admiralty Office, May 7th, 1742.

"'SIR,—My Lords Commissioners of the Admiralty having referred to the Directors of Greenwich Hospital, the report made by yourself and officers of the said Hospital in council, dated the 23rd past, relating to the flatness of the pewter dishes made use of to hold the broth and pease-pottage served out to the pensioners; the said Directors have returned hither a reply, a copy of which I am ordered to send you enclosed: they have herein set forth a fact which has a very fraudulent appearance, and it imports little by what means the dishes became shallow; but if it be true, what they assert, that the dishes hold but little more than half the quantity they ought to do, the poor men must have been greatly injured; and the allegations in the officers' report, that the pensioners have made no complaint, does rather aggravate their conduct, in suffering the men's patience to be so long imposed upon.

"'My Lords Commissioners of the Admiralty do command me to express myself in such a manner as may show their wrath and displeasure at such a proceeding. You will please to communicate this to the officers of the house in council.

"'Their lordships do very well know that the Directors have no power but in the management of the revenue and estates of the Hospital, and in carrying on the works of the building, nor did they assume any on this occasion; but their lordships shall always take well of them any informations that tend to rectify any mistakes or omissions whatsoever, concerning the state of the Hospital.

"'I am, Sir, your obedient servant,

"'THOS. CORBET.'

"From these passages it is plain, that the Admiralty *then* was sensible of the danger of abuses in so extensive an institution, that it encouraged complaints from all quarters, and instantly redressed them; for although Cor-

ruption was not then an infant, yet the idea of making a job of Greenwich Hospital never entered her head; and, indeed, if it had, she could hardly have found, at that time of day, a man with a heart callous enough to consent to such a scheme, or with forehead enough to carry it into public execution.

"*Secondly*, my lord, that the abuses he has investigated do in truth exist, and arise from the ascribed causes.

"And, at the word TRUTH, I must pause a little to consider, how far it is a defence on a rule of this kind, and what evidence of the falsehood of the supposed libel the court expects from prosecutors, before it will allow the information to be filed, even where no affidavits are produced by the defendant in his exculpation.*

"That a libel upon an individual is not the less so for being true,† I do not, under certain restrictions, deny to be law; nor is it necessary for me to deny it, because this is not a complaint in the ordinary course of law,‡ but an application to the court to exert an eccentric, extraordinary, voluntary jurisdiction, beyond the ordinary course of justice—a jurisdiction which, I am authorised from the best authority to say, this court will not exercise, unless the prosecutors come pure and unpolluted; denying upon oath the truth of every word and sentence which they complain of as injurious: for although, in common cases, the matter may be not the less libellous because true, yet the court will not interfere by information, for guilty, or even equivocal characters, but will leave them to its ordinary process. If the court does not see palpable malice and falsehood on the part of the defendant, and clear innocence on the part of the prosecutor, it will not stir; it will say, 'This may be a libel; this may deserve punishment; but go to a grand jury, or bring your actions: all men are equally entitled to the protection of the laws, but all men are not equally entitled to an extraordinary interposition and protection, beyond the common distributive forms of justice.'

"This is the true constitutional doctrine of informations, and made a

* A criminal information is a written suggestion of an offence committed, filed in the Court of Queen's Bench at the instance of an individual by the leave of the court, without the intervention of a grand jury. The court will not, therefore, give such leave, unless the party applying disclose fully, on affidavit, all the material facts of the case, and satisfy the court that a grand jury would, on such evidence, sanction an indictment if preferred; and if the cause of the application for leave to file a criminal information be a libel on an individual, the court always require the prosecutor to deny the truth of the charge on oath.

† In the case of an indictment for libel, the truth of the alleged libel could not, until very recently, have been set up in defence or mitigation of punishment. Now, by 6 and 7 Vic., cap. 96, sec. 6, on the trial of any indictment or information for a defamatory libel, the truth of the matters charged may be inquired into (if the defendant have pleaded as prescribed by this statute), but shall not amount to a defence, unless it was for the public benefit that the said matter charged should be published.

‡ Indictment may be considered the ordinary mode, as distinguished from criminal information, the peculiar mode of prosecution.

strong impression upon me, when delivered by your lordship in this court; the occasion which produced it was of little consequence, but the principle was important. It was an information moved for by General Plasto against the printer of the 'Westminster Gazette,' for a libel published in his paper, charging that gentleman, among other things, with having been tried at the Old Bailey for a felony. The prosecutor's affidavit denied the charges generally as foul, scandalous, and false; but did not traverse the aspersion I have just mentioned, as a substantive fact: upon which your lordship told the counsel,* who was too learned to argue against the objection, that the affidavit was defective in that particular, and should be amended before the court would even grant a rule to show cause. For although such general denial would be sufficient where the libellous matter consisted of scurrility, insinuation, general abuse, which is no otherwise traversable than by innuendos of the import of the scandal, and a denial of the truth of it, yet that when a libel consisted of direct and positive facts as charges, the court required substantive traverses of such facts in the affidavit, before it would interpose to take the matter from the cognisance of a grand jury.

"This is the law of informations; and by this touchstone I will try the prosecutors' affidavits, to show that they will fall of themselves, even without that body of evidence, with which I can in a moment overwhelm them.

"If the defendant be guilty of any crime at all, it is for writing this book: and the conclusion of his guilt or innocence must consequently depend on the scope and design of it, the general truth of it, and the necessity for writing it; and this conclusion can no otherwise be drawn, than by taking the whole of it together. Your lordships will not shut your eyes, as these prosecutors expect, to the design and general truth of the book, and go entirely upon the insulated passages, culled out, and set heads and points in their wretched affidavits, without context, or even an attempt to unriddle or explain their sense, or bearing on the subject; for, my lord, they have altogether omitted to traverse the scandalous facts themselves, and have only laid hold of those warm animadversions which the recital of them naturally produced in the mind of an honest, zealous man, and which, besides, are in many places only conclusions drawn from facts as general propositions, and not aspersions on them as individuals. And where the facts do come home to them as charges, not one of them is denied by the prosecutors. I assert, my lord, that in the Directors' whole affidavit (which I have read repeatedly, and with the greatest attention) there is not any one fact mentioned by the defendant, which is substantially denied; and even when five or six strong and pointed charges are tacked to each other, to avoid meeting naked truth in the teeth, they are not even contradicted by the lump, but a general innuendo is pinned to them all;—a mere illusory averment, that the facts mean to criminate them, and that they are not criminal; but the facts themselves remain unattempted and untouched.

* Mr. Dunning.

"Thus, my lord, after reciting in their affidavit the charge of their shameful misconduct in renewing the contract with the Huntingdon butchers, who had just compounded the penalties incurred by the breach of a former contract, and, in that breach of contract, the breach of every principle of humanity, as well as of honesty;—and the charge of putting improper objects of charity into the hospital, while the families of poor pensioners were excluded, and starving;—and of screening delinquents from inquiry and punishment in a pointed and particular instance, and therefore traversable as a substantive fact; yet, not only there is no such traverse, but, though all these matters are huddled together in a mass, there is not even a general denial; but one loose innuendo, that the facts in the publication are stated with an intention of criminating the prosecutors, and that, as far as they tend to criminate them, they are false.

"Will this meet the doctrine laid down by your lordship in the case of General Plasto? Who can tell what they mean by criminality? Perhaps they think neglect of duty not criminal; perhaps they think corrupt servility to a patron not criminal; and that if they do not actively promote abuses, the winking at them is not criminal. But I appeal to the court, whether the Directors' whole affidavit is not a cautious composition to avoid downright perjury, and yet a glaring absurdity on the face of it; for since the facts are not traversed, the court must intend them to exist; and if they do exist, they cannot but be criminal. The very existence of such abuses, in itself criminates those whose offices are to prevent them from existing. Under the shelter of such qualifications of guilt, no man in trust could ever be criminated. But at all events, my lord, since they seem to think that the facts may exist without their criminality—be it so: the defendant, then, does not wish to criminate them; he wishes only for effectual inquiry and information, that there may be no longer any crimes, and consequently no criminality. But he trusts, in the mean time, and I likewise trust, that, while these facts do exist, the court will at least desire the prosecutors to clear themselves before the general council of governors, to whom the writing is addressed, and not before any packed committee of directors appointed by a noble lord,* and then come back to the court acquitted of all criminality, or, according to the technical phrase, with clean hands for protection.

"Such are the merits of the affidavits exhibited by the Directors; and the affidavits of the other persons are, without distinction, subject to the same observations. They are made up either of general propositions, converted into charges by ridiculous innuendos, or else of strings of distinct disjointed facts tied together, and explained by one general averment: and after all, the scandal, such as their arbitrary interpretation makes it, is still only denied with the old jesuitical qualification of criminality,—the facts themselves remaining untraversed, and even untouched.

"They are, indeed, every way worthy of their authors;—of Mr. Godby,

* Meaning Lord Sandwich.

the *good* steward, who, notwithstanding the remonstrances of the captain of the week, received for the pensioners such food as would be rejected by the idle vagrant poor, and endeavoured to tamper with the cook to conceal it;—and of Mr. Ibbetson,* who converted their wards into apartments for himself, and the clerks of clerks, in the endless subordination of idleness; a wretch, who has dared, with brutal inhumanity, to strike those aged men, who in their youth would have blasted him with a look. As to Mr. ——, and Mr. ——, though I think them reprehensible for joining in this prosecution, yet they are certainly respectable men, and not at all on a level with the rest, nor has the defendant so reduced them. These two, therefore, have in fact no cause of complaint, and, Heaven knows, the others have no title to complain.

" In this enumeration of delinquents, the Rev. Mr. Cooke† looks round, as if he thought I had forgotten him. He is mistaken;—I well remembered him: but his infamy is worn threadbare: Mr. Murphy has already treated him with that ridicule which his folly, and Mr. Peckham with that invective which his wickedness, deserves. I shall therefore forbear to taint the ear of the court further with his name; a name which would bring dishonour upon his country and its religion, if human nature were not happily compelled to bear the greater part of the disgrace, and to share it amongst mankind.

" But these observations, my lord, are solely confined to the prosecutors' affidavits, and would, I think, be fatal to them, even if they stood uncontroverted. But what will the court say, when ours are opposed to them, where the truth of every part is sworn to by the defendant? What will the court say to the collateral circumstances in support of them, where every material charge against the prosecutors is confirmed? What will it say to the affidavit that has been made, that no man can come safely to support this injured officer?—that men have been deprived of their places, and exposed to beggary and ruin, merely for giving evidence of abuses, which have already, by his exertions, been proved before your lordship at Guildhall, whilst he himself has been suspended as a beacon for prudence to stand aloof from, so that in this unconstitutional mode of trial, where the law will not lend its process to bring in truth by *force*, he might stand unprotected by the *voluntary* oaths of the only persons who could witness for him?‡ His character has, indeed, in some measure, broke through all this malice: the love and veneration which his honest zeal has justly created, have enabled him to pro-

* Secretary to the Directors, and first, or confidential clerk of the Admiralty, charged by Captain Baillie with reducing the pensioners' wards for the accommodation of himself and his footmen.

† One of the chaplains and a director of the hospital, and chaplain to the first Lord of the Admiralty.

‡ In applying for a rule for a criminal information, the evidence, *pro* and *con.*, is sustained by affidavits which the court cannot compel any person to make; whereas, in the case of indictments, the personal attendance of the witnesses to give their evidence *vivâ voce* before the grand jury may be compelled by subpœna.

duce the proofs which are filed in court; but many have hung back, and one withdrew his affidavit, avowedly from the dread of persecution, even after it was sworn in court. Surely, my lord, this evidence of malice in the leading powers of the Hospital, would alone be sufficient to destroy their testimony even when swearing collaterally to facts, in which they were not themselves interested;—how much more when they come as prosecutors, stimulated by resentment, and with the hope of covering their patron's misdemeanours and their own, by turning the tables on the defendant, and prosecuting him criminally, to stifle all necessary inquiry into the subject of his complaints?

"Lieutenant Gordon, the first Lieutenant of the Hospital, and the oldest officer in the navy; Lieutenant William Lefevre; Lieutenant Charles Lefevre, his son; Alexander Moore; Lieutenant William Ansell; and Captain Allright, have all positively sworn, that a faction of landmen subsists in the Hospital, and that they do in their consciences believe, that the defendant drew upon himself the resentment of the prosecutors, from his activity in correcting this enormous abuse, and from his having restored the wards, that had been cruelly taken away from the poor old men;—that on that just occasion the whole body of the pensioners surrounded the apartments of their governor, to testify their gratitude with acclamations, which sailors never bestow but on men who deserve them. This simple and honest tribute was the signal for all that has followed; the leader of these unfortunate people was turned out of office; and the affidavit of Charles Smith is filed in court, which, I thank my God, I have not been able to read without tears;—how, indeed, could any man,—when he swears, that, for this cause alone, his place was taken from him; that he received his dismission when languishing with sickness in the infirmary, the consequence of which was, that his unfortunate wife, and several of his helpless, innocent children died in want and misery —the woman actually expiring at the gates of the hospital. That such wretches should escape chains and a dungeon, is a reproach to humanity, and to all order and government; but that they should become *prosecutors*, is a degree of effrontery that would not be believed by any man, who did not accustom himself to observe the shameless scenes which the monstrous age we live in is every day producing.

"I come now, my lord, to consider *to whom he has written*.—This book is not *published*. It was not printed for *sale*, but for the more commodious distribution among the many persons who are called upon in duty to examine into its contents. If the defendant had written it to calumniate, he would have thrown it abroad among the multitude: but he swears he wrote it for the attainment of reformation, and therefore confined its circulation to the proper channel, till he saw it was received as a libel, and then he even discontinued that distribution, and only showed it to his counsel to consider of a defence;—and no better defence can be made, than that the publication was so limited.

"My lord, a man cannot be guilty of a libel, who presents grievances before a *competent* jurisdiction, although the facts he presents should be false;

he may, indeed, be indicted for a malicious prosecution, and even there, a probable cause would protect him, but he can by no construction be considered as a libeller.

"The case of Lake and King, in 1st Levinz, 240, but which is better reported in 1st Saunders, is directly in point; it was an action for printing a petition to the members of a committee of parliament, charging the plaintiff with gross fraud in the execution of his office. I am aware that it was an action on the case, and not a criminal prosecution; but I am prepared to show your lordship, that the precedent on that account makes the stronger for us. The truth of the matter, though part of the plea, was not the point in contest; the justification was the presenting it to a proper jurisdiction, and printing it, as in this case, for more commodious distribution; and it was first of all resolved by the court, that the delivery of the petition to all the members of the committee was justifiable;—and that it was no libel, whether the matter contained were true or false, it being an appeal in a court of justice,* and because the parties, to whom it was addressed, had jurisdiction to determine the matter;—that the intention of the law in prohibiting libels was to restrain men from making themselves their own judges, instead of referring the matter to those whom the constitution had appointed to determine it;—and that to adjudge such reference to be a libel, would discourage men from making their inquiries with that freedom and readiness, which the law allows, and which the good of society requires. But it was objected, he could not justify the *printing;* for, by that means, it was published to printers and composers; but it was answered, and resolved by the whole court, that the printing, with intent to distribute them among the members of the committee, was legal; and that the making many copies by clerks, would have made the matter more public. I said, my lord, that this being an action on the case, and not an indictment or information, made the stronger for us; and I said so, because the action on the case is to redress the party in damages, for the injury he has sustained as an individual, and which he has a right to recover, unless the defendant can show that the matter is true, or, as in this case, whether true or false, that it is an appeal to justice. Now, my lord, if a defendant's right to appeal to justice could, in the case of Lake and King, repel a plaintiff's right to damages, although he was actually damnified by the appeal, how much more must it repel a criminal prosecution, which can be undertaken only for the sake of public justice, when the law says, it is for the benefit of public justice to make such appeal? And that case went to protect even falsehood, and where the defendant was not particularly called upon in duty as an individual to animadvert:—how much more shall it protect us, who were bound to inquire, who have written nothing but truth, and who have addressed what we have written to a competent jurisdiction?

* If the libel complained of be contained only in articles of the peace, or in some other regular proceeding in a court of justice, and not otherwise published, the defendant may give this in defence.

"I come lastly, my lord, to the *motives* which induced him to write.

"The government of Greenwich Hospital is divided into three departments:—the council; the directors; and the general governors: the defendant is a member of every one of these, and therefore his duty is universal. The council consists of the officers, whose duty it is to regulate the internal economy and discipline of the house, the hospital being, as it were, a large man of war, and the council its commanders; and therefore, these men, even by the present mutilated charter, ought all to be seamen. Secondly, the directors, whose duty is merely to concern themselves with the appropriation of the revenue, in contracting for and superintending supplies, and in keeping up the structure of the hospital; and lastly, the general court of governors, consisting of almost every man in the kingdom with a sounding name of office:—a mere nullity, on the members of which no blame of neglect can possibly be laid; for the hospital might as well have been placed under the tuition of the fixed stars, as under so many illustrious persons, in different and distant departments. From the council, therefore, appeals and complaints formerly lay at the Admiralty, the directors having quite a separate duty, and, as I have shown the court, the Admiralty encouraged complaints of abuses, and redressed them. But since the administration of the present First Lord, the face of things has changed. I trust it will be observed, that I do not go out of the affidavit to seek to calumniate: my respect for the court would prevent me, though my respect for the said First Lord might not. But the very foundation of my client's defence depending on this matter, I must take the liberty to point it out to the court.

"The Admiralty having placed several landmen in the offices that form the council, a majority is often artificially secured there: and when abuses are too flagrant to be passed over in the face of day, they carry their appeal to the Directors, instead of the Admiralty, where, from the very nature of man, in a much more perfect state than the prosecutors, they are sure to be rejected or slurred over; because these acting directors themselves are not only under the same influence with the complainants, but the subjects of the appeals are most frequently the fruits of their own active delinquencies, or at least the consequence of their own neglects. By this manœuvre the Admiralty is secured from hearing complaints, and the First Lord, when any comes as formerly from an individual, answers with a perfect composure of muscle, that it is *coram non judice*;—it does not come through the Directors. The defendant positively swears this to be true;—he declares that, in the course of these meetings of the council, and of appeals to the Directors, he has been not only uniformly over-ruled, but insulted as governor in the execution of his duty; and the truth of the abuses which have been the subject of these appeals, as well as the insults I have mentioned, are proved by whole volumes of affidavits filed in court, notwithstanding the numbers who have been deterred by persecution from standing forth as witnesses.

"The defendant also himself solemnly swears this to be true. He swears, that his heart was big with the distresses of his brave brethren, and that his

conscience called on him to give them vent; that he often complained; that he repeatedly wrote to, and waited on Lord Sandwich, without any effect, or prospect of effect; and that at last, wearied with fruitless exertions, and disgusted with the insolence of corruption in the hospital, which hates him for his honesty, he applied to be sent, with all his wounds and infirmities, upon actual service again. The answer he received is worthy of observation: the First Lord told him, in derision, that it would be the same thing everywhere else; that he would see the same abuses in a ship; and I do in my conscience believe he spoke the truth, as far as depended on himself.

"What, then, was the defendant to do under the treble capacity of lieutenant-Governor, of director, and of general governor of the hospital? My lord, there was no alternative but to prepare, as he did, the statement of the abuses for the other governors, or to sit silent, and let them continue. Had he chosen *the last*, he might have been caressed by the prosecutors, and still have continued the first inhabitant of a palace, with an easy independent fortune. But he preferred the dictates of honour, and he fulfilled them at the expense of being discarded, after forty years' gallant service, covered with wounds, and verging to old age. But he respected the laws while he fulfilled his duty; his object was reformation, not reproach: he preferred a complaint, and stimulated a regular inquiry, but suspended the punishment of public shame till the guilt should be made manifest by a trial. He did not therefore *publish*, as their affidavits falsely assert, but only preferred a complaint by distribution of copies to the governors, which I have shown the court, by the authority of a solemn legal decision, is not a libel.

"Such, my lords, is the case. The defendant,—not a disappointed malicious informer, prying into official abuses, because without office himself, but himself a man in office; not troublesomely inquisitive into other men's departments, but conscientiously correcting his own; doing it pursuant to the rules of law, and, what heightens the character, doing it at the risk of his office, from which the effrontery of power has already suspended him without proof of his guilt;—a conduct not only unjust and illiberal, but highly disrespectful to this court, whose judges sit in the double capacity of ministers of the law, and governors of this sacred and abused institution. Indeed, Lord Sandwich has, in my mind, acted such a part."

[Lord Mansfield here interrupted Mr. Erskine in his address, observing that Lord Sandwich was not before the court.]

"I know, that he is not formally before the court, but, for that very reason, *I will bring him before the court:* he has placed these men in the front of the battle, in hopes to escape under their shelter, but I will not join in battle with them: *their* vices, though screwed up to the highest pitch of human depravity, are not of dignity enough to vindicate the combat with *me*. I will drag *him* to light, who is the dark mover behind this scene of iniquity. I assert, that the Earl of Sandwich has but one road to escape out of this business without pollution and disgrace: and that is, by publicly disavowing the acts of the prosecutors, and restoring Captain Baillie to his command. If he does this, then his offence will be no more than the too common one of

having suffered his own personal interest to prevail over his public duty, in placing his voters in the hospital. But if, on the contrary, he continues to protect the prosecutors, in spite of the evidence of their guilt, which has excited the abhorrence of the numerous audience that crowd this court; if he keeps this injured man suspended, or dares to turn that suspension into a removal, I shall then not scruple to declare him an accomplice in their guilt, a shameless oppressor, a disgrace to his rank, and a traitor to his trust. But as I should be very sorry that the fortune of my brave and honourable friend should depend either upon the exercise of Lord Sandwich's virtues, or the influence of his fears, I do most earnestly entreat the court to mark the malignant object of this prosecution, and to defeat it. I beseech you, my lords, to consider, that even by discharging the rule, and with costs, the defendant is neither protected nor restored. I trust, therefore, your lordships will not rest satisfied with fulfilling your judicial duty, but, as the strongest evidence of foul abuses has, by accident, come collaterally before you, that you will protect a brave and public-spirited officer from the persecution this writing has brought upon him, and not suffer so dreadful an example to go abroad into the world, as the ruin of an upright man for having faithfully discharged his duty.

"My lords, this matter is of the last importance. I speak not as an advocate alone—I speak to you as a man—as a member of a state whose very existence depends upon her naval strength. If a misgovernment were to fall upon Chelsea Hospital, to the ruin and discouragement of our army, it would be no doubt to be lamented, yet I should not think it fatal; but if our fleets are to be crippled by the baneful influence of elections, we are lost indeed! If the seaman, who, while he exposes his body to fatigues and dangers, looking forward to Greenwich as an asylum for infirmity and old age, sees the gates of it blocked up by corruption, and hears the riot and mirth of luxurious landmen drowning the groans and complaints of the wounded helpless companions of his glory, he will tempt the seas no more. The Admiralty may press *his body*, indeed, at the expense of humanity and the constitution, but they cannot press *his mind*—they cannot press the heroic ardour of a British sailor; and instead of a fleet to carry terror all round the globe, the Admiralty may not much longer be able to amuse us with even the peaceable unsubstantial pageant of a review.*

"Fine and imprisonment! The man deserves a palace instead of a prison, who prevents the palace, built by the public bounty of his country, from being converted into a dungeon, and who sacrifices his own security to the interests of humanity and virtue.

"And now, my lord, I have done; but not without thanking your lordship for the very indulgent attention I have received, though in so late a stage of this business, and notwithstanding my great incapacity and inexperience. I resign my client into your hands, and I resign him with a well-founded confidence and hope; because that torrent of corruption, which has

* In allusion to a naval review which had lately taken place at Portsmouth.

unhappily overwhelmed every other part of the constitution, is, by the blessing of Providence, stopped here by the sacred independence of the judges. I know that your lordships will determine according to law; and, therefore, if an information should be suffered to be filed, I shall bow to the sentence, and shall consider this meritorious publication to be indeed an offence against the laws of this country; but then I shall not scruple to say, that it is high time for every honest man to remove himself from a country in which he can no longer do his duty to the public with safety; where cruelty and inhumanity are suffered to impeach virtue, and where vice passes through a court of justice unpunished and unreproved."

The court discharged the rule.

Speech in defence of Lord George Gordon, on his trial for high treason, 5th February, 1781.

On the passing of Sir George Saville's bill in 1778, for the relief of the English Roman Catholics from the penalties to which they were subject by the Act of 1699, it was proposed that in the next session of Parliament a similar Act should be passed for Scotland; but the strong proofs given by the Scotch populace of their antipathy to the proposed measure, and the riots which broke out in Edinburgh and Glasgow, where many of the Roman Catholic chapels were destroyed by the mob in their fury, caused it to be abandoned. The religious excitement thus produced in Scotland, soon spread to England, and was much encouraged by Lord George Gordon, a man of a wild and enthusiastic disposition (brother of the Duke of Gordon and a member of the House of Commons), who allowed himself to be nominated president of a society called the 'Protestant Association,' whose object was to procure, by all legal means in their power, a repeal of the late English Toleration Act. But, in large popular assemblies it is impossible to agitate religious questions in a temperate spirit: the real zeal for the protection of the Protestant church, which, without doubt, actuated the original members, grew, as the numbers of the association increased, into a wild fanaticism: in a short time there were no less than eighty-five corresponding societies formed, nominally in defence of Protestantism, but which, there is every reason to believe, took advantage of the popular bigotry to league together under the cloak of Protestantism, for the furtherance of political and seditious objects. On 29th May, 1780, a large public meeting was held at Coachmakers' Hall, for the purpose of considering the best means of procuring a repeal of the obnoxious act; on which occasion Lord George Gordon, who took the chair, made a most violent harangue against the Roman Catholics, insisting that Popery was spreading throughout the kingdom with frightful rapidity, and concluded by moving that on the following Friday the whole body of the Protestant Association should march in procession to the House of Commons with a petition, which he undertook to present, for the repeal of the

act, but declared that, unless 20,000 men attended on the occasion, he would not present the petition. Accordingly, on the 2nd of June, upwards of 40,000 persons assembled in St. George's fields, and, being divided into companies, marched in procession to the House, where they insulted many of the members whom they considered opposed to their wishes; and, on Lord G. Gordon's motion, for taking their petition into immediate consideration, being rejected by a large majority, they conducted themselves in so riotous a manner that the military were obliged to be sent for to disperse them. On being thus driven from the Houses of Parliament, the mob, disappointed in their object, became tumultuous, and proceeded to destroy two Roman Catholic chapels, in Lincoln's Inn Fields and Golden-square, which they were allowed to do without interruption. Encouraged by this success, and lured on by the prospect of pillage, they were quickly joined by all the lowest dregs of the metropolis, and for four days London was at the mercy of an infuriated and bigoted populace. Newgate prison became an early object of attack, and was speedily burnt and the prisoners released. Lord Mansfield's mansion, in Bloomsbury-square, was soon afterwards destroyed, together with all the valuable manuscripts, library, and furniture it contained. On the night of the 7th of June, the scene was terrific: the prisons of the Fleet, King's Bench, and Bridewell, together with the distilleries in Holborn, and houses in all directions, were to be seen in flames; while the uproar in the streets, from the yells of the intoxicated mob and the discharges of musketry, added to the terror of the citizens. At length, order being restored by the military, although at the sacrifice of 285 lives, Lord George Gordon, as the author of the riots, was arrested for high treason, in levying war against the King, and committed to the Tower. His trial came on at the Old Bailey, on the 5th February, 1781, when Mr. Kenyon and Mr. Erskine appeared as counsel for the prisoner. After Mr. Kenyon had addressed the jury on the conclusion of the case for the prosecution, Mr. Erskine, his junior, would, in the usual course, have immediately followed; but he claimed the right, which was recognised by the court, of reserving his address until after the close of the evidence for the defence, which being concluded about midnight, Mr. Erskine rose, and delivered the following celebrated speech :—

"Gentlemen of the Jury,

"Mr. Kenyon having informed the Court that we propose to call no other witnesses, it is now my duty to address myself to you, as counsel for the noble prisoner at the bar, the whole evidence being closed;—I use the word closed, because it is certainly not finished, since I have been obliged to leave the place in which I sat, to disentangle myself from the volumes of men's names, which lay there under my feet, whose testimony, had it been necessary for the defence, would have confirmed all the facts that are already in evidence before you.

"Gentlemen, I feel myself entitled to expect, both from you and from the Court, the greatest indulgence and attention;—I am, indeed, a greater object of your compassion, than even my noble friend whom I am defending.

He rests secure in conscious innocence, and in the well-placed assurance, that it can suffer no stain in your hands;—not so with ME; I stand before you a troubled, I am afraid a *guilty* man, in having presumed to accept of the awful task which I am now called upon to perform—a task which my learned friend who spoke before me, though he has justly risen, by extraordinary capacity and experience, to the highest rank in his profession, has spoken of with that distrust and diffidence, which becomes every Christian in a cause of blood. If Mr. Kenyon has such feelings, think what mine must be. Alas! Gentlemen, who am I? A young man of little experience, unused to the bar of criminal courts, and sinking under the dreadful consciousness of my defects. I have, however, this consolation, that no ignorance nor inattention on my part can possibly prevent you from seeing, under the direction of the Judges, that the Crown has established no case of treason.

"Gentlemen, I did expect that the Attorney-General, in opening a great and solemn state prosecution, would have at least indulged the advocates for the prisoner with his notions on the law, as applied to the case before you, in less general terms. It is very common indeed, in little civil actions, to make such obscure introductions by way of trap; but in criminal cases, it is unusual and unbecoming; because the right of the Crown to reply, even where no witnesses are called by the prisoner, gives it thereby the advantage of replying, without having given scope for observations on the principles of the opening, with which the reply must be consistent.

"One observation he has, however, made on the subject, in the truth of which I heartily concur, *viz.*, That the crime, of which the noble person at your bar stands accused, is the very highest and most atrocious that a member of civil life can possibly commit; because it is not, like all other crimes, merely an injury to society from the breach of some of its reciprocal relations, but is an attempt utterly to dissolve and destroy society altogether.

"In nothing, therefore, is the wisdom and justice of our laws so strongly and eminently manifested as in the rigid, accurate, cautious, explicit, unequivocal definition of what shall constitute this high offence;—for, high treason consisting in the breach and dissolution of that allegiance which binds society together, if it were left ambiguous, uncertain, or undefined, all the other laws established for the personal security of the subject would be utterly useless; since this offence, which, from its nature, is so capable of being created and and judged of by the rules of political expediency on the spur of the occasion, would be a rod at will to bruise the most virtuous members of the community, whenever virtue might become troublesome or obnoxious to a bad government.

"Injuries to the persons and properties of our neighbours, considered as individuals, which are the subjects of all other criminal prosecutions, are not only capable of greater precision, but the powers of the state can be but rarely interested in straining them beyond their legal interpretation; but if Treason, where the government is directly offended, were left to the judgment of its ministers, without any boundaries,—nay, without the most broad, distinct, and inviolable boundaries marked out by Law,—there could be no

public freedom, and the condition of an Englishman would be no better than a slave's at the foot of a Sultan; since there is little difference whether a man dies by the stroke of a sabre, without the forms of a trial, or by the most pompous ceremonies of justice, if the crime could be made at pleasure by the state to fit the fact that was to be tried.

"Would to God, Gentlemen of the Jury, that this were an observation of theory alone, and that the page of our history was not blotted with so many melancholy, disgraceful proofs of its truth; but these proofs, melancholy and disgraceful as they are, have become glorious monuments of the wisdom of our fathers, and ought to be a theme of rejoicing and emulation to us. For from the mischiefs constantly arising to the state from every extension of the ancient law of treason, the ancient law of treason has been always restored, and the constitution at different periods washed clean; though, unhappily, with the blood of oppressed and innocent men.

"When I speak of the ancient law of treason, I mean the venerable statute of King Edward the Third,* on which the indictment you are now trying is framed;—a statute made, as its preamble sets forth, for the more precise definition of this crime, which had not, by the common law, been sufficiently explained; and consisting of different and distinct members, the plain unextended letter of which was thought to be a sufficient protection to the person and honour of the Sovereign, and an adequate security to the laws committed to his execution. I shall mention only two of the number, the others not being in the remotest degree applicable to the present accusation.

"*To compass, or imagine, the death of the King;* such imagination, or purpose of the mind (visible only to its great Author), being manifested by some open act; an institution obviously directed, not only to the security of his natural person, but to the stability of the government; the life of the prince being so interwoven with the constitution of the state, that an attempt to destroy the one, is justly held to be a rebellious conspiracy against the other.

"Secondly, which is the crime charged in the indictment, *To levy war against him in his realm;*—a term that one would think could require no explanation, nor admit of any ambiguous construction, amongst men who are willing to read laws according to the plain signification of the language in which they are written; but which has, nevertheless, been an abundant source of that constructive cavil, which this sacred and valuable act was made expressly to

* This Statute (25 Edw. III., st. 5, c. 2.) enacts and declares "That if a person doth compass or imagine the death of the King, Queen, or their eldest son and heir, or if he violate and deflower the King's wife, or companion, or eldest daughter unmarried, or the wife of the King's eldest son, or if he levy war against the King in his realm, or adhere to his enemies, give them aid and comfort in his realm or elsewhere, and thereof be probably (or proveably) attainted of open deed; and if a man counterfeit the King's great or privy Seal, or his money, or bring false money into the kingdom like to the money of England to make payment therewith in deceit of the King and his people; or if he kill the Chancellor, Treasurer, or any of the King's justices in either bench, Justices of Assize, &c., being in their places doing their offices; these cases are to be adjudged Treason."

prevent. The real meaning of this branch of it, as it is bottomed in policy, reason, and justice,—as it is ordained in plain unambiguous words,—as it is confirmed by the precedents of justice, and illustrated by the writings of the great lights of the law in different ages of our history,—I shall, before I sit down, impress upon your minds as a safe, unerring standard by which to measure the evidence you have heard. At present I shall only say, that far and wide as judicial decisions have strained the construction of levying war, beyond the warrant of the statute, to the discontent of some of the greatest ornaments of the profession, they hurt not me ;—as a citizen I may disapprove of them, but as advocate for the noble person at your bar, I need not impeach their authority ; because none of them have said more than this—that war may be levied against the King in his realm, not only by an insurrection to change or to destroy the fundamental constitution of the government itself by rebellious war, but, by the same war, to endeavour to suppress the execution of the laws it has enacted, or to violate and overbear the protection they afford, not to individuals (which is a private wrong), but to any general class or description of the community, *by premeditated open acts of violence, hostility, and force.*

"Gentlemen, I repeat these words, and call solemnly on the Judges to attend to what I say, and to contradict me if I mistake the law,—*by premeditated, open acts of violence, hostility, and force*—nothing equivocal—nothing ambiguous—no intimidations, or overawings, which signify nothing precise or certain, because what frightens one man, or set of men, may have no effect upon another; but that which *compels* and *coerces—open violence and force.*

"Gentlemen, this is not only the whole text, but, I submit it to the learned Judges, under whose correction I am happy to speak, an accurate explanation of the statute of treason, as far as it relates to the present subject, taken in its utmost extent of judicial construction, and which you cannot but see, not only in its letter, but in its most strained signification, is confined to acts which *immediately*, *openly*, and *unambiguously*, strike at the very root and being of government, and not to any other offences, however injurious to its peace.

" Such were the boundaries of high treason marked out in the reign of Edward the Third; and as often as the vices of bad princes, assisted by weak submissive parliaments, extended state offences beyond the strict letter of that act, so often the virtue of better princes and wiser parliaments brought them back again.

" A long list of new treasons, accumulated in the wretched reign of Richard the Second, from which (to use the language of the act that repealed them) 'no man knew what to do or say for doubt of the pains of death,' were swept away in the first year of Henry the Fourth, his successor; and many more, which had again sprung up in the following distracted arbitrary reigns, putting tumults and riots on a footing with armed rebellion, were again levelled in the first year of Queen Mary, and the statute of Edward made once more the standard of treasons. The acts, indeed, for securing his present Majesty's illustrious house from the machinations of those very Papists, who are now so

highly in favour, have, since that time, been added to the list; but those not being applicable to the present case, the ancient statute is still our only guide; which is so plain and simple in its object, so explicit and correct in its terms, as to leave no room for intrinsic error; and the wisdom of its authors has shut the door against all extension of its plain letter; declaring, in the very body of the act itself, that nothing out of that plain letter should be brought within the pale of treason by inference or construction, but that, if any such cases happened, they should be referred to the Parliament.

"This wise restriction has been the subject of much just eulogium by all the most celebrated writers on the criminal law of England. Lord Coke says, the Parliament that made it was, on that account, called *Benedictum*, or Blessed: and the learned and virtuous Judge Hale, a bitter enemy and opposer of constructive treason, speaks of this sacred institution with that enthusiasm, which it cannot but inspire in the breast of every lover of the just privileges of mankind.

"Gentlemen, in these mild days, when juries are so free, and judges so independent, perhaps all these observations might have been spared as unnecessary;—but they can do no harm; and this history of treason, so honourable to England, cannot (even imperfectly as I have given it) be unpleasant to Englishmen. At all events, it cannot be thought an inapplicable introduction to saying, that Lord George Gordon, who stands before you indicted for that crime, is not—*cannot* be guilty of it, unless he has levied war against the King in his realm, contrary to the plain letter, spirit, and intention of the act of the twenty-fifth of Edward the Third; to be extended by no new or occasional constructions,—to be strained by no fancied analogies,—to be measured by no rules of political expediency,—to be judged of by no theory,—to be determined by the wisdom of no individual, however wise,—but to be expounded by the simple, genuine letter of the law.

"Gentlemen, the only overt act charged in the indictment is—the assembling the multitude, which we all of us remember went up with the petition of the associated Protestants on the second day of last June; and, in addressing myself to a humane and sensible jury of Englishmen, sitting in judgment on the life of a fellow-citizen, more especially under the direction of a Court so filled as this is, I trust I need not remind you, that the purposes of that multitude, as originally assembled on that day, and the purposes and acts of him who assembled them, are the sole objects of investigation; and that all the dismal consequences which followed, and which naturally link themselves with this subject in the firmest minds, must be altogether cut off, and abstracted from your attention,—further than the evidence warrants their admission. Indeed, if the evidence had been co-extensive with these consequences; if it had been proved that the same multitude, under the direction of Lord George Gordon, had afterwards attacked the Bank, broke open the prisons, and set London in a conflagration, I should not now be addressing you. Do me the justice to believe, that I am neither so foolish as to imagine I could have defended him, nor so profligate to wish it if I could. But when

it has appeared, not only by the evidence in the cause, but by the evidence of the thing itself,—by the issues of life, which may be called the evidence of Heaven, that these dreadful events were either entirely unconnected with the assembling of that multitude to attend the petition of the Protestants, or, at the very worst, the unforeseen, undesigned, unabetted, and deeply regretted consequences of it, I confess the seriousness and solemnity of this trial sink and dwindle away. Only abstract from your minds all that misfortune, accident, and the wickedness of others have brought upon the scene, and the cause requires no advocate. When I say that it requires no advocate, I mean that it requires no argument to screen it from the guilt of treason. For though I am perfectly convinced of the purity of my noble friend's intentions, yet I am not bound to defend his prudence, nor to set it up as a pattern for imitation; since you are not trying him for imprudence, for indiscreet zeal, or for want of foresight and precaution, but for a deliberate and malicious predetermination to overpower the laws and government of his country, by hostile, rebellious force.

"The indictment, therefore, first charges, that the multitude, assembled on the 2nd of June, 'were armed and arrayed in a warlike manner:' which, indeed, if it had omitted to charge, we should not have troubled you with any defence at all, because no judgment could have been given on so defective an indictment; for the statute never meant to put an unarmed assembly of citizens on a footing with armed rebellion; and the crime, whatever it is, must always appear on the record to warrant the judgment of the Court.

"It is certainly true, that it has been held to be matter of evidence, and dependent on circumstances, what numbers, or species of equipment and order, though not the regular equipment and order of soldiers, shall constitute an army, so as to maintain the averment in the indictment of a warlike array; and likewise, what kind of violence, though not pointed at the King's person, or the existence of the government, shall be construed to be war against the King. But as it has never yet been maintained in argument, in any court of the kingdom, or even speculated upon in theory, that a multitude, without either weapons offensive or defensive of any sort or kind, and yet not supplying the want of them by such acts of violence as multitudes sufficiently great can achieve without them, was a hostile army within the statute;—as it has never been asserted by the wildest adventurer in constructive treason, that a multitude, armed with nothing, threatening nothing, and doing nothing, was an army levying war; I am entitled to say, that the evidence does not support the first charge in the indictment; but that, on the contrary, it is manifestly false—false in the knowledge of the Crown, which prosecutes it—false in the knowledge of every man in London, who was not bed-ridden on Friday the 2nd of June, and who saw the peaceable demeanour of the associated Protestants.

"But you will hear, no doubt, from the Solicitor-General (for they have saved all their intelligence for the reply) that fury supplies arms;—*furor arma*

ministrat ;—and the case of Damaree * will, I suppose, be referred to ; where the people assembled had no banners or arms, but only clubs and bludgeons : yet the ringleader, who led them on to mischief, was adjudged to be guilty of high treason for levying war. This judgment it is not my purpose to impeach, for I have no time for digression to points that do not press upon me. In the case of Damaree, the mob, though not regularly armed, were provided with such weapons as best suited their mischievous designs : their designs were, besides, open and avowed, and all the mischief was done that could have been accomplished, if they had been in the completest armour :—they burnt Dissenting meeting-houses protected by law, and Damaree was taken at their head, *in flagrante delicto*, with a torch in his hand, not only in the very act of destroying one of them, but leading on his followers, *in person*, to the *avowed* destruction of all the rest. There could, therefore, be no doubt of his purpose and intention, nor any great doubt that the perpetration of such purpose was, from its generality, high treason, if perpetrated by such a force as distinguishes a felonious riot from a treasonable levying of war.† The principal doubt, therefore, in that case was, whether such an unarmed riotous force was war, within the meaning of the statute ; and on that point very learned men have differed ; nor shall I attempt to decide between them, because in this one point they all agree. Gentlemen, I beseech you to attend to me here. I say, on this point they all agree, that it is the *intention* of assembling them, which forms the guilt of treason. I will give you the words of high authority, the learned Foster ; whose private opinions will, no doubt, be pressed upon you as a doctrine and law, and which, if taken together, as all opinions ought to be, and not extracted in smuggled sentences to serve a shallow trick, I am contented to consider as authority.

" That great judge, immediately after supporting the case of Damaree, as a levying war within the statute, against the opinion of Hale, in a similar case, *viz.* the destruction of bawdy-houses, ‡ which happened in his time, says, 'The true criterion therefore seems to be—*Quo animo* did the parties assemble ?—with what intention did they meet ?'

" On that issue, then, by which I am supported by the whole body of the criminal law of England ; concerning which there are no practical precedents of the Courts that clash, nor even abstract opinions of the closet that differ, I come forth with boldness to meet the Crown : for even supposing that peaceable multitude,—though not hostilely arrayed,—though without one species of weapon among them,—though assembled without plot or disguise by a public advertisement, exhorting, nay commanding peace, and inviting the magis-

* In this case a mob assembled, for the purpose of destroying all the Protestant Dissenting meeting-houses, and actually pulled down two. 8 State Trials, 218. Foster, 208.

† To constitute a treasonable levying of war, there must be an insurrection ; there must be force accompanying that insurrection ; and it must be for an object of a general nature. Regina *v.* Frost, 9 Carrington and Payne, 129.

‡ 1 Hale, 132.

trates to be present to restore it, if broken,—though composed of thousands who are now standing around you, unimpeached and unreproved, yet who are all principals in treason, if such assembly was treason; supposing, I say, this multitude to be nevertheless an army within the statute, still the great question would remain behind, on which the guilt or innocence of the accused must singly depend, and which it is our exclusive province to determine:—namely, whether they were assembled by my noble Client, for the traitorous purpose charged in the indictment?* For war must not only be levied, but it must be levied against the King in his realm; *i. e.*, either directly against his person to alter the constitution of the government, of which he is the head, or to suppress the laws committed to his execution, *by rebellious force.* You must find that Lord George Gordon assembled these men with that traitorous intention; you must find not merely a riotous illegal petitioning,—not a tumultuous, indecent importunity to influence Parliament,—not the compulsion of motive, from seeing so great a body of people united in sentiment and clamorous supplication,—but the absolute, unequivocal compulsion of force, from the hostile acts of numbers united in rebellious conspiracy and arms.

"This is the issue you are to try: for crimes of all denominations consist wholly in the purpose of the human will producing the act: *Actus non facit reum nisi mens sit rea.*—The act does not constitute guilt, unless *the mind* be guilty. This is the great text from which the whole moral of penal justice is deduced: it stands at the top of the criminal page, throughout all the volumes of our humane and sensible laws, and Lord Chief Justice Coke, whose chapter on this crime is the most authoritative and masterly of all his valuable works, ends almost every sentence with an emphatical repetition of it.

"The indictment *must* charge an open *act*, because the purpose of the mind, which is the object of trial, can only be known by actions; or, again to use the words of Foster, who has ably and accurately expressed it, 'the traitorous purpose is the treason, the overt act, the means made use of to effectuate the intentions of the heart.' But why should I borrow the language of Foster, or of any other man, when the language of the indictment itself is lying before our eyes? What does it say? Does it directly charge the overt act as in itself constituting the crime? No; it charges that the prisoner 'maliciously and traitorously did *compass, imagine, and intend to raise and levy war and rebellion against the King;*' this is the malice prepense of treason; and that to fulfil and bring to effect *such traitorous compassings and intentions*, he did, on the day mentioned in the indictment, actually assemble them, and levy war and rebellion against the King. Thus the law, which is made to correct and punish the wickedness of the heart, and not the unconscious deeds of the body, goes up to the fountain of human agency, and arraigns the lurking mischief of the soul, dragging it to light by the evidence of open acts. The hostile *mind* is the crime; and, therefore, unless the matters that are in evidence

* There is no doubt that actual violence was not contemplated by those who encouraged the assembly of the people, on the second of June, although they sought to obtain the object of their petition by improper intimidation.

before you, do, beyond all doubt or possibility of error, convince you that the prisoner is a determined traitor *in his heart*, he is not guilty.

"It is the same principle which creates all the various degrees of homicide, from that which is excusable, to the malignant guilt of murder. The fact is the same in all; the death of the man is the imputed crime; but the *intention* makes all the difference; and he who killed him is pronounced a murderer,—a single felon,—or only an unfortunate man, as the circumstances, by which his mind is deciphered to the jury, show it to have been cankered by deliberate wickedness, or stirred up by sudden passions.

"Here an immense multitude was, beyond all doubt, assembled on the second of June; but whether HE that assembled them be guilty of high treason, of a high misdemeanour, or only of a breach of the act of King Charles the Second* against tumultuous petitioning (if such an act still exists), depends wholly upon the evidence of his purpose in assembling them,—to be gathered by you, and by you alone, from the whole tenor of his conduct; and to be gathered, not by inference, or probability, or reasonable presumption, but, in the words of the act, proveably; that is, in the full unerring force of demonstration. You are called, upon your oaths, to say, *not* whether Lord George Gordon assembled the multitudes in the place charged in the indictment,—for that is not denied; but whether it appears, by the facts produced in evidence for the Crown, when confronted with the proofs which we have laid before you, that he assembled them in hostile array, and with a hostile mind, to take the laws into his own hands by main force, and to dissolve the constitution of the government, unless his petition should be listened to by Parliament.

"That is *your* exclusive province to determine. The Court can only tell you what acts the law, in its general theory, holds to be high treason, on the general assumption that such acts proceed from traitorous purposes: but they must leave it to *your* decision, and to *yours* alone, whether the acts proved appear, in the present instance, under all the circumstances, to have arisen from the causes which form the essence of this high crime.

"Gentlemen, you have now heard the law of treason; first, in the abstract, and secondly, as it applies to the general features of the case: and you have heard it with as much sincerity as if I had addressed you upon my oath from the bench where the Judges sit. I declare to you solemnly, in the presence of that great Being at whose bar we must all hereafter appear, that

* By 13 Car. II., st. 1, c. 5, passed in consequence of the tumults on the opening of the memorable Parliament of 1640, it is provided, That no petition to the King or either House of Parliament, for any alteration in church or state, shall be signed by above twenty persons, unless the matter thereof be approved by three justices of the peace, or the major part of the Grand Jury in the county; and in London by the Lord Mayor, Aldermen, and Common Council: nor shall any petition be presented by more than ten persons at a time. But under these regulations, it is declared by the Bill of Rights, 1 W. and M., st. 2, c. 2, that the subject hath a right to petition. Upon the trial of Lord George Gordon, the Court of King's Bench declared that they were clearly of opinion that the Statute 13 Car. II., was not in any degree affected by the Bill of Rights. Dougl. 571.

I have used no one art of an advocate, but have acted the plain unaffected part of a Christian man, instructing the consciences of his fellow-citizens to do justice. If I have deceived you on the subject, I am myself deceived; and if I am misled through ignorance, my ignorance is incurable, for I have spared no pains to understand it.

"I am not stiff in opinions; but before I change any one of those that I have given you to-day, I must see some direct monument of justice that contradicts them, for the law of England pays no respect to theories, however ingenious, or to authors, however wise; and therefore, unless you hear me refuted by a series of direct precedents, and not by vague doctrine, if you wish to sleep in peace, follow me.

"And now the most important part of our task begins, namely, the application of the evidence to the doctrines I have laid down; for trial is nothing more than the reference of facts to a certain rule of action, and a long recapitulation of them only serves to distract and perplex the memory, without enlightening the judgment, unless the great standard principle by which they are to be measured is fixed, and rooted in the mind. When that is done (which, I am confident, has been done by you), everything worthy of observation falls naturally into its place, and the result is safe and certain.

"Gentlemen, it is already in proof before you (indeed it is now a matter of history), that an act of Parliament passed in the session of 1778, for the repeal of certain restrictions, which the policy of our ancestors had imposed upon the Roman Catholic religion, to prevent its extension, and to render its limited toleration harmless;—restrictions, imposed *not* because our ancestors took upon them to pronounce that faith to be offensive to God, but because it was incompatible with good faith to man;—being utterly inconsistent with allegiance to a Protestant government, from their oaths and obligations, to which it gave them not only a release, but a crown of glory, as the reward of treachery and treason.

"It was, indeed, with astonishment, that I heard the Attorney-General stigmatise those wise regulations of our patriot ancestors with the title of factious and cruel impositions on the consciences and liberties of their fellow-citizens. Gentlemen, they were, at the time, wise and salutary regulations;—regulations to which this country owes its freedom, and his Majesty his crown,—a crown which he wears under the strict entail of professing and protecting that religion which they were made to repress; and which I know my noble friend at the bar joins with me, and with all good men, in wishing that he and his posterity may wear for ever.

"It is not my purpose to recall to your minds the fatal effects which bigotry has, in former days, produced in this island. I will not follow the example the Crown has set me, by making an attack upon your passions, on subjects foreign to the object before you; I will not call your attention from those flames, kindled by a villanous banditti (which they have thought fit, in defiance of evidence, to introduce), by bringing before your eyes the more cruel flames, in which the bodies of our expiring, meek, patient, Christian

fathers were, little more than a century ago, consuming in Smithfield; I will not call up from the graves of martyrs, all the precious holy blood that has been spilt in this land, to save its established government and its reformed religion from the secret villany and the open force of Papists;—the cause does not stand in need even of such honest arts, and I feel my heart too big voluntarily to recite such scenes, when I reflect that some of my own, and my best and dearest progenitors, from whom I glory to be descended, ended their innocent lives in prisons and in exile, only because they were Protestants.

"Gentlemen, whether the great lights of science and of commerce, which, since those disgraceful times, have illuminated Europe, may, by dispelling these shocking prejudices, have rendered the Papists of this day as safe and trusty subjects as those who conform to the national religion established by law, I shall not take upon me to determine. It is wholly unconnected with the present inquiry: we are not trying a question either of divinity or civil policy; and I shall, therefore, not enter at all into the motives or merits of the act, that produced the Protestant petition to Parliament. It was certainly introduced by persons who cannot be named by any good citizen, without affection and respect;* but this I will say, without fear of contradiction, that it was sudden and unexpected; that it passed with uncommon precipitation, considering the magnitude of the object; that it underwent no discussion; and that the heads of the church, the constitutional guardians of the national religion, were never consulted upon it. Under such circumstances, it is no wonder that many sincere Protestants were alarmed; and they had a right to spread their apprehensions. It is the privilege, and the duty, of all the subjects of England to watch over their religious and civil liberties, and to approach either their representatives or the Throne, with their fears and their complaints,—a privilege which has been bought with the dearest blood of our ancestors, and which is confirmed to us by law, as our ancient birthright and inheritance.

"Soon after the the repeal of the act, the Protestant Association began, and, from small beginnings, extended over England and Scotland. A deed of association was signed, *by all legal means* to oppose the growth of Popery; and which of the advocates for the Crown will stand up, and say, that such an union was illegal? Their union was perfectly constitutional; there was no obligation of secresy; their transactions were all public; a committee was appointed for regularity and correspondence; and circular letters were sent to all the dignitaries of the church, inviting them to join with them in the protection of the national religion.

"All this happened before Lord George Gordon was a member of, or the most distantly connected with it; for it was not till November, 1779, that the London Association made him an offer of their chair, by an unanimous

* The bill was brought in by Sir George Saville, and supported, amongst others, by Mr. Dunning, Mr. Thurlow, and Lord Beauchamp, and passed into an Act without any opposition in the House of Commons, and with very slight opposition in the Lords, and the King was known to have been favourable to it.

resolution, communicated to him, unsought and unexpected, in a public letter, signed by the secretary in the name of the whole body; and from that day, to the day he was committed to the Tower, I will lead him by the hand in your view, that you may see there is no blame in him. Though all his behaviour was unreserved and public, and though watched by wicked men for purposes of vengeance, the Crown has totally failed in giving it such a context as can justify, in the mind of any reasonable man, the conclusion it seeks to establish.

"This will fully appear hereafter; but let us first attend to the evidence on the part of the Crown.

"The first witness to support this prosecution is,

"William Hay—a bankrupt in fortune he acknowledged himself to be, and I am afraid he is a bankrupt in conscience. Such a scene of impudent, ridiculous inconsistency, would have utterly destroyed his credibility, in the most trifling civil suit; and I am, therefore, almost ashamed to remind you of his evidence, when I reflect that you will never suffer it to glance across your minds, on this solemn occasion.

"This man, whom I may now, without offence or slander, point out to you as a dark Popish spy, who attended the meetings of the London Association, to pervert their harmless purposes, conscious that the discovery of his character would invalidate all his testimony, endeavoured at first to conceal the activity of his zeal, by denying that he had seen any of the destructive scenes imputed to the Protestants; yet, almost in the same breath, it came out, by his own confession, that there was hardly a place, public or private, where riot had erected her standard, in which he had not been; nor a house, prison, or chapel, that was destroyed, to the demolition of which he had not been a witness. He was at Newgate, the Fleet, at Langdale's, and at Coleman-street; at the Sardinian ambassador's, and in Great Queen street, Lincoln's Inn Fields. What took him to Coachmakers' Hall? He went there, as he told us, to watch their proceedings, because he expected no good from them; and to justify his prophecy of evil, he said, on his examination by the Crown, that, as early as December, he had heard some alarming republican language. What language did he remember?—'Why, that the Lord Advocate of Scotland was called only Harry Dundas.' Finding this too ridiculous for so grave an occasion, he endeavoured to put some words about the breach of the King's coronation oath* into the prisoner's mouth, as proceeding from himself; which it is notorious he read out of an old Scotch book, published near a century ago, on the abdication of King James the Second.

"Attend to his cross examination: he was *sure* he had seen Lord George Gordon at Greenwood's room in January; but when Mr. Kenyon, who knew Lord George had *never* been there, advised him to recollect himself, he desired to consult his notes. First, he is positively sure from his memory, that he had seen him there: then he says, he cannot trust his memory without refer-

* Hay swore that Lord Gordon had declared that the King had broken his coronation oath.

ring to his papers :—on looking at them, they contradict him; and he then confesses, that he *never* saw Lord George Gordon at Greenwood's room in January, when his note was taken, *nor at any other time.* But why did he take notes? He said it was, because he foresaw what would happen. How fortunate the Crown is, gentlemen, to have such friends to collect evidence by anticipation! When did he begin to take notes? He said, on the 21st of February, which was the *first* time, he had been alarmed at what he had seen and heard, although, not a minute before, he had been reading a note taken at Greenwood's room in *January*, and had sworn that he had attended their meetings, from apprehensions of consequences, as early as *December.*

" Mr. Kenyon, who now saw him bewildered in a maze of falsehood, and suspecting his notes to have been a villanous fabrication to give the show of correctness to his evidence, attacked him with a shrewdness for which he was wholly unprepared. You remember the witness had said, that he always took notes when he attended any meetings where he expected their deliberations might be attended with dangerous consequences. ' *Give me one instance,*' says Mr. Kenyon, ' *in the whole course of your life, where you ever took notes before.*' Poor Mr. Hay was thunderstruck ;—the sweat ran down his face, and his countenance bespoke despair,—not recollection : ' Sir, I must have an instance; tell me when and where?' Gentlemen, it was now too late ; *some* instance he was obliged to give, and, as it was evident to everybody that he had one still to choose, I think he might have chosen a better. *He had taken notes at the General Assembly of the Church of Scotland, six and twenty years before.* What ! did he apprehend dangerous consequences from the deliberations of the grave elders of the Kirk? Were they levying war against the King? At last, when he is called upon to say to whom he communicated the intelligence he had collected. the spy stood confessed indeed : at first he refused to tell, saying he was his friend, and that he was not obliged to give him up ; and when forced at last to speak, it came out to be Mr. Butler, a gentleman universally known, and who, from what I know of him, I may be sure never employed him, or any other spy, because he is a man every way respectable, but who certainly is not only a papist, but the person who was employed in all their proceedings, to obtain the late indulgences from parliament. He said Mr. Butler was his particular friend, yet professed himself ignorant of his religion. I am sure he could not be desired to conceal it ;—Mr. Butler makes no secret of his religion ;—it is no reproach to any man who lives the life he does; but Mr. Hay thought it of moment to his own credit in the cause, that he himself might be thought a Protestant, unconnected with papists, and not a popish spy.

" So ambitious, indeed, was the miscreant of being useful in this odious character, through every stage of the cause, that after staying a little in St. George's Fields, he ran home to his own house in St. Dunstan's churchyard, and got upon the leads, where he swore he saw *the very same man*, carrying *the very same flag*, he had seen in the fields. Gentlemen, whether the petitioners employed the same standard-man through the whole course of their

peaceable procession is certainly totally immaterial to the cause, but the circumstance is material to show the wickedness of the man. 'How,' says Mr. Kenyon, 'do you know that it was the same person you saw in the fields? Were you acquainted with him?' 'No.' 'How then?' 'Why, he looked like a brewer's servant.' *Like a brewer's servant!*—'What, were they not all in their Sunday's clothes?' 'Oh! yes, they were all in their Sunday's clothes.' 'Was the man with the flag then alone in the dress of his trade?' 'No.' 'Then how do you know he was a brewer's servant?' *Poor Mr. Hay!—nothing but sweat and confusion again.* At last, after a hesitation, which everybody thought would have ended in his running out of court, he said, 'he knew him to be a brewer's servant, *because there was something particular in the cut of his coat, the cut of his breeches, and the cut of his stockings.*'

"You see, Gentlemen, by what strange means villany is detected; perhaps he might have escaped from me, but he sunk under that shrewdness and sagacity, which ability, without long habits, does not provide. Gentlemen, you will not, I am sure, forget, whenever you see a man about whose apparel there is anything particular, to set him down for a brewer's servant.

"Mr. Hay afterwards went to the lobby of the House of Commons. What took him there?—*He thought himself in danger*; and therefore, says Mr. Kenyon, you thrust yourself voluntarily into the very centre of danger. *That would not do.* Then he had a *particular friend*, whom he knew to be in the lobby, and whom he apprehended to be in danger.—'Sir, who was that particular friend?—Out with it:—Give us his name instantly.' *All in confusion again. Not a word to say for himself; and the name of this person who had the honour of Mr. Hay's friendship, will probably remain a secret for ever.*

"It may be asked, are these circumstances material? and the answer is obvious: They are material; because, when you see a witness running into every hole and corner of falsehood, and, as fast as he is made to bolt out of one, taking cover in another, you will never give credit to what that man relates, as to any possible matter which is to affect the life or reputation of a fellow-citizen accused before you. God forbid that you should. I might, therefore, get rid of this wretch altogether, without making a single remark on that part of his testimony, which bears upon the issue you are trying; but the Crown shall have the full benefit of it all;—I will defraud it of nothing he has said. Notwithstanding all his folly and wickedness, let us for the present take it to be true, and see what it amounts to. What is it he states to have passed at Coachmakers' Hall? That Lord George Gordon desired the multitude to behave with unanimity and firmness, as the Scotch had done. Gentlemen, there is no manner of doubt that the Scotch behaved with unanimity and firmness, in resisting the relaxation of the penal laws against papists, and that by that unanimity and firmness they succeeded;* but it was by the *constitutional* unanimity and firmness of the great body of the people of Scotland, whose example Lord George Gordon recommended, and not by

* The violent popular opposition manifested towards the proposed Act extending the Roman Catholic Relief Bill to Scotland, caused it to be abandoned.

the *riots and burning*, which they attempted to prove had been committed in Edinburgh in 1778.

"I will tell you myself, Gentlemen, as one of the people of Scotland, that there then existed, and still exist, eighty-five societies of Protestants, who have been, and still are, uniformly firm in opposing every change in that system of laws, established to secure the revolution, and Parliament gave way in Scotland to their united voice, and not to the firebrands of the rabble. It is the duty of Parliament to listen to the voice of the people;—for they are the servants of the people; and when the constitution of church or state is believed, whether truly or falsely, to be in danger, I hope there never will be wanting men (notwithstanding the proceedings of to-day) to desire the people to persevere and be firm. Gentlemen, has the Crown proved that the Protestant brethren of the London association fired the mass-houses in Scotland, or acted in rebellious opposition to law, so as to entitle it to wrest the prisoner's expressions into an excitation of rebellion against the state, or of violence against the properties of English papists, by setting up their firmness as an example? Certainly not. They have not even proved the naked fact of such violences, though such proof would have called for no resistance; since to make it bear as rebellious advice to the Protestant Association of London, it must have been first shown, that such acts had been perpetrated or encouraged by the Protestant societies in the north.

"Who has dared to say this? No man.—The rabble in Scotland certainly did that which has since been done by the rabble in England, to the disgrace and reproach of both countries; but in neither country was there found one man of character or condition, of any description, who abetted such enormities, nor any man, high or low, of any of the associated Protestants, here or there, who were either convicted, tried, or taken on suspicion.

"As to what this man heard, on the 29th of May, it was nothing more than the proposition of going up in a body to St. George's Fields, to consider how the petition should be presented, with the same exhortations to firmness as before. The resolution made on the motion has been read, and when I come to state the evidence on the part of my noble friend, I will show you the impossibility of supporting any criminal inference, from what Mr. Hay afterwards puts in his mouth in the lobby, even taking it to be true. I wish here to be accurate [*looking on a card on which he had taken down his words*]; He says: '*Lord George desired them to continue stedfastly to adhere to so good a cause as theirs was;—promised to persevere in it himself, and hoped, though there was little expectation at present from the House of Commons, that they would meet with redress from their* MILD AND GRACIOUS SOVEREIGN, *who, no doubt, would recommend it to his ministers to repeal it.*' This was all he heard, and I will show you how this wicked man himself, (if any belief is to be given to him,) entirely overturns and brings to the ground the evidence of Mr. Bowen,* on which the Crown rests singly for the proof of words which

* The Chaplain of the House of Commons.

are more difficult to explain. Gentlemen, was this the language of rebellion? If a multitude were at the gates of the House of Commons, to command and insist on a repeal of this law, why encourage their hopes by reminding them that they had a mild and gracious sovereign? If war was levying against him, there was no occasion for his mildness and graciousness. If he had said, '*Be firm and persevere, we shall meet with redress from the* PRUDENCE of the Sovereign,' it might have borne a different construction; because, whether he was gracious or severe, his prudence might lead him to submit to the necessity of the times. The words sworn to were, therefore, perfectly clear and unambiguous—'*Persevere in your zeal and supplications, and you will meet with redress from a mild and gracious King, who will recommend it to his Minister to repeal it.*' Good God! if they were to wait till the King, whether from benevolence or fear, should direct his Minister to influence the proceedings of Parliament, how does it square with the charge of instant coercion or intimidation of the House of Commons? If the multitude were assembled with the premeditated design of producing immediate repeal by terror or arms, is it possible to suppose that their leader would desire them to be quiet, and refer them to those qualities of the prince, which, however eminently they might belong to him, never could be exerted on subjects in rebellion to his authority? In what a labyrinth of nonsense and contradiction do men involve themselves, when, forsaking the rules of evidence, they would draw conclusions from words in contradiction to language, and in defiance of common sense?

"The next witness that is called to you by the Crown is, Mr. Metcalf. He was not in the lobby, but speaks only to the meeting in Coachmakers' Hall, on the 29th of May, and in St. George's Fields. He says, that at the former, Lord George reminded them, that the Scotch had succeeded by their unanimity—and hoped that no one, who had signed the petition, would be ashamed or afraid to show himself in the cause; that he was ready to go to the gallows for it; that he would not present the petition of a lukewarm people; that he desired them to come to St. George's Fields, distinguished with blue cockades, and that they should be marshalled in four divisions. Then he speaks to having seen them in the fields, in the order which has been described; and Lord George Gordon in a coach, surrounded with a vast concourse of people, with blue ribands, forming like soldiers, but was not near enough to hear whether the prisoner spoke to them or not. Such is Mr. Metcalf's evidence,—and after the attention you have honoured me with, and which I shall have occasion so often to ask again on the same subject, I shall trouble you with but one observation, viz., That it cannot, without absurdity, be supposed, that if the assembly at Coachmakers' Hall had been such conspirators, as they are represented, their doors would have been open to strangers, like this witness, to come in to report their proceedings.

"The next witness is Mr. Anstruther, who speaks to the language and deportment of the noble prisoner, both at Coachmakers' Hall, on the 29th of

May, and afterwards on the 2nd of June, in the lobby of the House of Commons. It will be granted to me, I am sure, even by the advocates of the Crown, that this gentleman, not only from the clearness and consistency of his testimony, but from his rank and character in the world, is infinitely more worthy of credit than Mr. Hay, who went before him; and if the circumstances of irritation and confusion under which the Rev. Mr. Bowen confessed himself to have heard and seen, what he told you he heard and saw, I may likewise assert, without any offence to the reverend gentleman, and without drawing any parallel between their credits, that where their accounts of this transaction differ, the preference is due to the former. Mr. Anstruther very properly prefaced his evidence with this declaration:—'*I do not mean to speak accurately to words; it is impossible to recollect them at this distance of time.*' I believe I have used his very expression, and such expression it well became him to use in a *case of blood.* But words, even if they could be accurately remembered, are to be admitted with great reserve and caution, when the purpose of the speaker is to be measured by them. They are transient and fleeting; frequently the effect of a sudden transport, —easily misunderstood,—and often unconsciously misrepresented. It may be the fate of the most innocent language, to appear ambiguous, or even malignant, when related in mutilated detached passages, by people to whom it is not addressed, and who know nothing of the previous design, either of the speaker, or of those to whom he spoke. Mr. Anstruther says, that he heard Lord George Gordon desire the petitioners to meet him on the Friday following, in St. George's Fields, and that if there were fewer than twenty thousand people, he would not present the petition, as it would not be of consequence enough; and that he recommended to them the example of the Scotch, who, by their firmness, had carried their point.

"Gentlemen,—I have already admitted that they did by firmness carry it. But has Mr. Anstruther attempted to state any one expression, that fell from the prisoner, to justify the positive unerring conclusion, or even the presumption, that the *firmness* of the Scotch Protestants, by which the point was carried in Scotland, *was the resistance and riots of the rabble?* No, gentlemen; he singly states the words, as he heard them in the hall on the 29th, and all that he afterwards speaks to in the lobby, repels so harsh and dangerous a construction. The words sworn to at Coachmakers' Hall are, '*that he recommended temperance and firmness.*' Gentlemen, if his motives are to be judged by words, for heaven's sake let these words carry their popular meaning in language. Is it to be presumed, without proof, that a man means *one* thing, because he says *another?* Does the exhortation of temperance and firmness apply most naturally to the constitutional resistance of the Protestants of Scotland, or to the outrages of ruffians who pulled down the houses of their neighbours? Is it possible, with decency, to say in a court of justice, that the recommendation of temperance is the excitation to villany and frenzy? But the words, it seems, are to be construed, not from their own signification, but from that which follows them, viz., *by that the*

Scotch carried their point. Gentlemen, is it in evidence before you, that by rebellion the Scotch carried their point; or that the indulgences to Papists were not extended to Scotland, because the rabble had opposed their extension? Has the Crown authorised either the court, or its law servants, to tell you so? Or can it be decently maintained, that parliament was so weak or infamous, as to yield to a wretched mob of vagabonds at Edinburgh, what it has since refused to the earnest prayers of a hundred thousand Protestants in London? No, Gentlemen of the Jury, Parliament was not, I hope, so abandoned. But the Ministers knew that the Protestants of Scotland were, to a man, abhorrent of that law; and though they never held out resistance, if Government should be disposed to cram it down their throats by force, yet such a violence to the united sentiments of a whole people appeared to be a measure so obnoxious, so dangerous, and withal so unreasonable, that it was wisely and judiciously dropped, to satisfy the general wishes of the nation, and not to avert the vengeance of those low incendiaries, whose misdeeds have rather been talked of than proved.

"Thus, Gentlemen, the exculpation of Lord George's conduct, on the 29th of May, is sufficiently established by the very evidence, on which the Crown asks you to convict him: since, in recommending *temperance and firmness after the example of Scotland*, you cannot be justified in pronouncing, that he meant more than the firmness of the grave and respectable people in that country, to whose constitutional firmness the legislature had before acceded, instead of branding it with the title of rebellion; and who, in my mind, deserve thanks from the King, for temperately and firmly resisting every innovation, which they conceived to be dangerous to the national religion, independently of which his Majesty (without a new limitation by Parliament) has no more title to the crown than I have.

"Such, Gentlemen, is the whole amount of all my noble friend's previous communication with the petitioners, whom he afterwards assembled to consider, how their petition should be presented. This is all, not only that men of credit can tell you on the part of the presecution, but all that even the worst vagabond who ever appeared in a court—the very scum of the earth—thought himself safe in saying, upon oath, on the present occasion. Indeed, Gentlemen, when I consider my noble friend's situation, his open, unreserved temper, and his warm and animated zeal for a cause which rendered him obnoxious to so many wicked men; speaking daily and publicly to mixed multitudes of friends and foes, on a subject which affected his passions, I confess, I am astonished that no other expressions, than those in evidence before you, have found their way into this court. That they have not found their way is surely a most satisfactory proof that there was nothing in his heart which even youthful zeal could magnify into guilt, or that want of caution could betray.

"Gentlemen, Mr. Anstruther's evidence, when he speaks of the lobby of the House of Commons, is very much to be attended to. He says, '*I saw Lord George leaning over the gallery*,' which position, joined with what he

mentioned of his talking with the chaplain, marks the time, and casts a strong doubt on Bowen's testimony, which you will find stands, in this only material part of it, single and unsupported. 'I then heard him,' continues Mr. Anstruther, 'tell them, they had been called a mob, in the House, and that peace officers had been sent to disperse them, (peaceable petitioners:) but that by steadiness and firmness they might carry their point; as he had no doubt his Majesty, who was a gracious prince, would send to his ministers to repeal the act, when he heard his subjects were coming up for miles round, and wishing its repeal.' How coming up? In rebellion and arms to compel it? No! all is still put on the *graciousness* of the Sovereign, in listening to the unanimous wishes of his people. If the multitude then assembled had been brought together to intimidate the House by their firmness, or to coerce it by their numbers, it was ridiculous to look forward to the King's influence over it. when the collection of future multitudes should induce him to employ it. The expressions were therefore quite unambiguous, nor could malice itself have suggested another construction of them, were it not for the fact, that the House was at that time surrounded, not by the petitioners, whom the noble prisoner had assembled, but by a mob who had mixed with them, and who, therefore, when addressed by him, were instantly set down as his followers. He thought he was addressing the sober members of the Association, who, by steadiness and perseverance, could understand nothing more than perseverance in that conduct he had antecedently prescribed, as steadiness signifies a uniformity, not a change of conduct; and I defy the Crown to find out a single expression, from the day he took the chair at the Association, to the day I am speaking of, that justifies any other construction of steadiness and firmness, than that which I put upon it before.

"What would be the feelings of our venerable ancestors, who framed the statute of treasons to prevent their children being drawn into the snares of death, unless *proveably* convicted by overt acts, if they could hear us disputing, whether it was treason to desire harmless unarmed men to be firm and of good heart, and to trust to the graciousness of their King?

"Here Mr. Austruther closes his evidence, which leads me to Mr. Bowen, who is the only man—I beseech you, Gentlemen of the Jury, to attend to this circumstance—Mr. Bowen is the only man who has attempted, directly or indirectly, to say, that Lord George Gordon uttered a syllable to the multitude in the lobby, concerning the destruction of the mass-houses in Scotland. Not one of the Crown's witnesses, not even the wretched abandoned Hay, who was kept, as he said, in the lobby the whole afternoon, from anxiety for his pretended friend, has ever glanced at any expression resembling it. They all finish with the expectation which he held out, from a mild and gracious Sovereign. Mr. Bowen alone goes on further, and speaks of the successful riots of the Scotch: but speaks of them in such a manner, as, so far from conveying the hostile idea, which he seemed sufficiently desirous to convey, tends directly to wipe off the dark hints and insinuations which have been made to supply the place of proof upon that subject—a subject which should

not have been touched on, without the fullest support of evidence, and where nothing but the most unequivocal evidence ought to have been received. He says '*his Lordship began by bidding them be quiet, peaceable, and steady*'— not '*steady*' alone; though, if that had been the expression, singly by itself, I should not be afraid to meet it; but, '*Be quiet*, PEACEABLE, *and steady*.' Gentlemen, I am indifferent what other expressions of dubious interpretation are mixed with these, for you are trying whether my noble friend came to the House of Commons with a decidedly hostile mind; and as I shall, on the recapitulation of our own evidence, trace him in your view without spot or stain down to the very moment when the imputed words were spoken, you will hardly forsake the whole innocent context of his behaviour, and torture your inventions to collect the blackest system of guilt, starting up in a moment, without being previously concerted, or afterwards carried into execution.

"First, what are the words by which you are to be convinced that the Legislature was to be frightened into compliance, and to be coerced if terror should fail? '*Be quiet*, PEACEABLE, *and steady;—You are a good people—Yours is a good cause:—His Majesty is a* GRACIOUS *monarch, and when he hears that all his people, ten miles round, are collecting, he will send to his Ministers to repeal the act.*' By what rules of construction can such an address to unarmed, defenceless men, be tortured into treasonable guilt? It is impossible to do it without pronouncing, even in the total absence of all proof of fraud or deceit in the speaker, that *quiet* signifies *tumult and uproar*, and that *peace* signifies *war and rebellion.*

"I have before observed, that it was most important for you to remember, that with this exhortation to quiet and confidence in the King, the evidence of all the other witnesses closed; even Mr. Anstruther, who was a long time afterwards in the lobby, heard nothing further: so that if Mr. Bowen had been out of the case altogether, what would the amount have been? Why simply, that Lord George Gordon having assembled an unarmed, inoffensive multitude in St. George's Fields, to present a petition to Parliament, and finding them becoming tumultuous, to the discontent of Parliament and the discredit of the cause, desired them not to give it up, but to continue to show their zeal for the legal object in which they were engaged; to manifest that zeal *quietly and peaceably*, and not to despair of success; since, though the House was not disposed to listen to it, they had a gracious Sovereign, who would second the wishes of his people. This is the sum and substance of the whole. They were not, even by any one ambiguous expression, encouraged to trust to their numbers, as sufficient to overawe the House, or to their strength to compel it, or to the prudence of the state in yielding to necessity—but to the indulgence of the King, in compliance with the wishes of his people. Mr. Bowen, however, thinks proper to proceed; and I beg that you will attend to the sequel of his evidence. He stands single in all the rest that he says, which might entitle me to ask you absolutely to reject it; but I have no objection to your believing every word of it *if you can:* because, if inconsistencies prove anything, they prove that there was nothing of that deliberation in the prisoner's expressions which can justify the inference of

guilt. I mean to be correct as to his words [*looking at his words which he had noted down*]. He says, '*That Lord George told the people, that an attempt had been made to introduce the bill into Scotland, and that they had no redress till the mass-houses were pulled down. That Lord Weymouth* then sent official assurances that it should not be extended to them.*' Gentlemen, why is Mr. Bowen called by the Crown to tell you this? The reason is plain: because the Crown, conscious that it could make no case of treason from the rest of the evidence, in sober judgment of law—aware that it had proved no purpose or act of force against the House of Commons, to give countenance to the accusation, much less to warrant a conviction, found it necessary to hold up the noble prisoner, as the wicked and cruel author of all those calamities, in which every man's passions might be supposed to come in to assist his judgment to decide. They therefore made him speak in enigmas to the multitude: not telling them *to do* mischief in order to succeed, but that *by* mischief in Scotland success had been obtained.

"But were the mischiefs themselves, that did happen here, of a sort to support such conclusion? Can any man living, for instance, believe that Lord George Gordon could possibly have excited the mob to destroy the house of that great and venerable magistrate, who has presided so long in this high tribunal, that the oldest of us do not remember him with any other impression than the awful form and figure of justice: a magistrate, who had always been the friend of the Protestant Dissenters, against the ill-timed jealousies of the establishment—his countrymen too—and, without adverting to the partiality not unjustly imputed to men of that country, a man of whom any country might be proud? No, Gentlemen, it is not credible, that a man of noble birth and liberal education (unless agitated by the most implacable personal resentment, which is not imputed to the prisoner), could possibly consent to the burning of the house of Lord Mansfield.

"If Mr. Bowen, therefore, had ended here, I can hardly conceive such a construction could be decently hazarded, consistent with the testimony of the witnesses we have called; how much less, when, after the dark insinuations which such expressions might otherwise have been argued to convey, the very same person, on whose veracity or memory they are only to be believed, and who must be credited or discredited *in toto*, takes out the sting himself, by giving them such an immediate context and conclusion, as renders the proposition ridiculous, which his evidence is brought forward to establish; for he says, that Lord George Gordon instantly afterwards addressed himself thus:—'*Beware of evil-minded persons who may mix among you and do mischief, the blame of which will be imputed to you.*'

"Gentlemen, if you reflect on the slander, which I told you fell upon the Protestants in Scotland by the acts of the rabble there, I am sure you will see the words are capable of an easy explanation. But as Mr. Bowen concluded with telling you, that he heard them in the midst of noise and confusion, and as I can only take them from *him*, I shall not make an attempt to

* Then Secretary for the Southern Department.

collect them into one consistent discourse, so as to give them a decided meaning in favour of my client, because I have repeatedly told you, that words, imperfectly heard and partially related, cannot be so reconciled. But this I will say—that he must be a ruffian and not a lawyer, who would dare to tell an English jury, that such ambiguous words, hemmed closely in between others not only innocent, but meritorious, are to be adopted to constitute guilt; by rejecting both introduction and sequel, with which they are absolutely irreconcilable and inconsistent: for if ambiguous words, when coupled with actions, decipher the mind of the actor, so as to establish the presumption of guilt, will not such as are plainly innocent and unambiguous go as far to repel such presumption? Is innocence more difficult of proof than the most malignant wickedness? Gentlemen, I see your minds revolt at such shocking propositions. I beseech you to forgive me; I am afraid that my zeal has led me to offer observations, which I ought in justice to have believed every honest mind would suggest to itself with pain and abhorrence, without being illustrated and enforced.

"I now come more minutely to the evidence on the part of the prisoner.

"I before told you, that it was not till November 1779, when the Protestant Association was already fully established, that Lord George Gordon was elected president by the unanimous voice of the whole body, unlooked for and unsolicited; and it is surely not an immaterial circumstance, that at the very first meeting where his lordship presided, a dutiful and respectful petition, the same which was afterwards presented to Parliament, was read and approved of;—a petition which, so far from containing anything threatening or offensive, conveyed not a very oblique reflection upon the behaviour of the people in Scotland: taking notice that as England and that country were now one, and as official assurances had been given that the law should not pass there, they hoped the *peaceable* and *constitutional deportment of the English* Protestants would entitle them to the approbation of Parliament.

"It appears by the evidence of Mr. Erasmus Middleton,* a very respectable clergyman and one of the committee of the Association, that a meeting had been held on the 4th of May, at which Lord George was not present; that at that meeting a motion had been made for going up with the petition in a body, but which not being regularly put from the chair, no resolution was come to upon it; and that it was likewise agreed on, but in the same irregular manner, that there should be no other public meeting, previous to the presenting the petition:—that this last resolution occasioned great discontent, and that Lord George was applied to by a large and respectable number of the Association to call another meeting, to consider of the most prudent and respectful method of presenting their petition: but it appears that, before he complied with their request, he consulted with the committee on the propriety of compliance, who all agreeing to it, except the secretary,

* The first witness called for the Prisoner.

his lordship advertised the meeting, which was afterwards held on the 29th of May. The meeting was therefore the act of the *whole* Association; and as to the original difference between my noble friend and the committee, on the expediency of the measure, it is totally immaterial; since Mr Middleton, who was one of the number who differed from him on that subject (and whose evidence is therefore infinitely more to be relied on), told you, that his whole deportment was so clear and unequivocal, as to entitle him to assure you, on his most solemn oath, that he in his conscience believed his views were perfectly constitutional and pure. This most respectable clergyman further swears, that he attended all the previous meetings of the society, from the day the prisoner became president to the day in question, and that, knowing they were objects of much jealousy and malice, he watched his behaviour with anxiety, lest his zeal should furnish matter for misrepresentation; but that he never heard an expression escape him which marked a disposition to violate the duty and subordination of a subject, or which could lead any man to believe that his objects were different from the avowed and legal objects of the Association. We could have examined thousands to the same fact, for, as I told you when I began to speak, I was obliged to leave my place to disencumber myself from their names.

"This evidence of Mr. Middleton's, as to the 29th of May, must, I should think, convince every man how dangerous and unjust it is, in witnesses, however perfect their memories, or however great their veracity, to come into a criminal court where a man is standing for his life or death, retailing scraps of sentences, which they had heard by thrusting themselves, from curiosity, into places where their business did not lead them; ignorant of the views and tempers of both speakers and hearers, attending only to a part, and, perhaps innocently, misrepresenting that part, from not having heard the whole.

"The witnesses for the Crown all tell you, that Lord George said he would not go up with the petition unless he was attended by 20,000 people who had signed it: and there they think proper to stop, as if he had said nothing further; leaving you to say to yourselves, What possible purpose could he have in assembling such a multitude, on the very day the House was to receive the petition? Why should he urge it, when the committee had before thought it inexpedient? And why should he refuse to present it, unless he was so attended? Hear what Mr. Middleton says. He tells you, that my noble friend informed the petitioners, that if it was decided they were *not* to attend to consider how their petition should be presented, he would with the greatest pleasure go up with it *alone;* but that, if it was resolved they should attend it in person, he expected twenty thousand at the least should meet him in St. George's Fields, for that otherwise the petition would be considered as a forgery; it having been thrown out in the House and elsewhere, that the repeal of the bill was not the serious wish of the people at large, and that the petition was a mere list of names in parchment, and not of men in sentiment. Mr. Middleton added, That Lord George

adverted to the same objections having been made to many other petitions, and he therefore expressed an anxiety to show Parliament how many were actually interested in its success, which he reasonably thought would be a strong inducement to the House to listen to it. The language imputed to him falls in most naturally with this purpose: '*I wish Parliament to see who and what you are; dress yourselves in your best clothes*'—which Mr. Hay (who, I suppose, had been reading the indictment) thought it would be better to call 'ARRAY YOURSELVES.' He desired that not a stick should be seen among them, and that, if anyman insulted another, or was guilty of any breach of the peace, he was to be given up to the magistrates. Mr. Attorney-General, to persuade you that this was all colour and deceit, says, 'How was a magistrate to face forty thousand men? How were offenders in such a multitude to be amenable to the civil power?' What a shameful perversion of a plain peaceable purpose! To be sure, if the multitude had been assembled to resist the magistrate, offenders could not be secured. But they themselves were ordered to apprehend all offenders amongst them, and to deliver them up to justice. They themselves were to surrender their fellows to civil authority if they offended.

"But it seems that Lord George ought to have foreseen that so great a multitude could not be collected without mischief. Gentlemen, we are not trying whether he might or ought to have foreseen mischief, but whether he wickedly and traitorously *preconcerted and designed it.* But if *he* be an object of censure for not foreseeing it, what shall we say to GOVERNMENT, that took no step to prevent it,—that issued no proclamation, warning the people of the danger and illegality of such an assembly? If a peaceable multitude, with a petition in their hands, be an army,—and if the noise and confusion inseparable from numbers, though without violence or the purpose of violence, constitute war,—what shall be said of that GOVERNMENT, which remained from Tuesday to Friday, knowing that an army was collecting to levy war by public advertisement, yet had not a single soldier,—no, nor even a constable, to protect the state?

"Gentlemen, I come forth to do that for Government, which its own servant, the Attorney-General, has not done,—I come forth to rescue it from the eternal infamy which would fall upon its head, if the language of its own advocate were to be believed. But Government has an unanswerable defence. It neither did nor could possibly enter into the head of any man in authority to prophesy—human wisdom could not divine, that wicked and desperate men, taking advantage of the occasion, which, perhaps, an imprudent zeal for religion had produced, would dishonour the cause of all religions, by the disgraceful acts which followed.

"Why, then, is it to be said that Lord George Gordon is a traitor, who, without proof of any hostile purpose to the government of his country, only did not foresee, what nobody else foresaw,—what those people, whose business it is to foresee every danger that threatens the state, and to avert it by the interference of magistracy, though they could not but read the advertisement, neither did nor could possibly apprehend?

"How are these observations attempted to be answered? Only by asserting, without evidence, or even reasonable argument, that all this was colour and deceit. Gentlemen, I again say, that it is scandalous and reproachful, and not to be justified by any duty, which can possibly belong to an advocate at the bar of an English court of justice, to declaim, without any proof, or attempt of proof, that all a man's expressions, however peaceable, however quiet, however constitutional, however loyal, are all fraud and villany. Look, Gentlemen, to the issues of life, which I before called the evidence of Heaven: I call them so still. Truly may I call them so, when, out of a book compiled by the Crown from the petition in the House of Commons, and containing the names of all who signed it, and which was printed in order to prevent any of that number being summoned upon the jury to try this indictment, *not one criminal, or even a suspected, name is to be found amongst this defamed host of petitioners.*

"After this, Gentlemen, I think the Crown ought, in decency, to be silent. I see the effect this circumstance has upon you, and I know I am warranted in my assertion of the fact. If I am not, why did not the Attorney-General produce the record of some convictions, and compare it with the list? I thank them, therefore, for the precious compilation, which, though they did not produce, they cannot stand up and deny.

"Solomon says, '*Oh that mine adversary would write a book!*' So say I. My adversary has written a book, and out of it I am entitled to pronounce, that it cannot again be decently asserted, that Lord George Gordon, in exhorting an innocent and unimpeached multitude to be peaceable and quiet, was exciting them to violence against the state.

"What is the evidence, then, on which this connexion with the mob is to be proved? *Only that they had blue cockades.** Are you or am I answerable for every man who wears a blue cockade? If a man commits murder in my livery, or in yours, without command, counsel, or consent, is the murder ours? In all *cumulative*, constructive treasons, you are to judge from the tenor of a man's behaviour, not from crooked and disjointed parts of it. *Nemo repente fuit turpissimus.* No man can possibly be guilty of *this* crime by a *sudden* impulse of the mind, as he may of some others; and, certainly, Lord George Gordon stands upon the evidence at Coachmakers' Hall as pure and white as snow. He stands so upon the evidence of a man who had differed with him as to the expediency of his conduct, yet who swears, that, from the time he took the chair till the period which is the subject of inquiry, there was no blame in him.

"You, therefore, are bound as Christian men to believe, that, when he came to St. George's Fields that morning, he did not come there with the hostile purpose of repealing a law by rebellion.

* The members of the Association, at the meeting in St. George's Fields, were distinguished by wearing blue cockades on which were inscribed the words, "No Popery!"

"But still it seems all his behaviour at Coachmakers' Hall was colour and deceit. Let us see, therefore, whether this body of men, when assembled, answered the description of that which I have stated to be the purpose of him who assembled them. Were they a multitude arrayed for terror or force? On the contrary, you have heard, upon the evidence of men whose veracity is not to be impeached, that they were sober, decent, quiet, peaceable tradesmen;—that they were all of the better sort;—all well-dressed and well-behaved;—and that there was not a man among them who had any one weapon, offensive or defensive. Sir Philip Jennings Clerke* tells you, he went into the Fields; that he drove through them, talked to many individuals among them, who all told him that it was not their wish to persecute the Papists, but that they were alarmed at the progress of their religion from their schools. Sir Philip further told you, that he never saw a more peaceable multitude in his life; and it appears upon the oaths of all who were present,† that Lord George Gordon went round among them, desiring peace and quietness.

"Mark his conduct when he heard from Mr. Evans,‡ that a low riotous set of people were assembled in Palace Yard. Mr. Evans, being a member of the Protestant Association, and being desirous that nothing bad might happen from the assembly, went in his carriage with Mr. Spinage to St. George's Fields, to inform Lord George that there were such people assembled (probably Papists) who were determined to do mischief. The moment he told him of what he heard, whatever his original plan might have been, he instantly changed it on seeing the impropriety of it. 'Do you intend,' said Mr. Evans, 'to carry up all these men with the petition to the House of Commons?' 'Oh no! no! not by any means; I do not mean to carry them all up.' 'Will you give me leave,' said Mr. Evans, 'to go round to the different divisions, and tell the people it is not your lordship's purpose?' He answered, 'By all means.' And Mr. Evans accordingly went, but it was impossible to guide such a number of people, peaceable as they were. They were all desirous to go forward; and Lord George was at last obliged to leave the Fields, exhausted with heat and fatigue, beseeching them to be

* This gentleman, in giving evidence on behalf of the prisoner, deposed to the peaceable behaviour of the members of the Association, who formed the original procession to carry up the petition, and whom he distinguished from the mob which afterwards assembled tumultuously about the House of Commons.

† Sir James Lowther, another of the prisoner's witnesses, proved that Lord George Gordon and Sir Philip Jennings Clerke accompanied him in his carriage from the House, and the former entreated the multitudes collected to disperse quietly to their homes.

‡ A surgeon, who also was examined for the defence, and deposed that he saw Lord George Gordon in the midst of one of the companies in St. George's Fields, and that it appeared his wish, at that time, from his conduct and expressions, that, to prevent all disorder, he should not be attended by the multitude across Westminster Bridge. This gentleman's evidence was confirmed by that of other witnesses.

peaceable and quiet. Mrs. Whitingham set him down at the House of Commons; and at the very time that he thus left them in perfect harmony and good order, it appears, by the evidence of Sir Philip Jennings Clerke, that Palace Yard was in an uproar, filled with mischievous boys and the lowest dregs of the people.

"Gentlemen, I have all along told you, that the Crown was aware that it had no case of treason, without connecting the noble prisoner with consequences, which it was in some luck to find advocates to state, without proof to support it. I can only speak for myself; that, small as my chance is (as times go), of ever arriving at high office, I would not accept of it on the terms of being obliged to produce against a fellow-citizen that which I have been witness to this day; for Mr. Attorney-General perfectly well knew the innocent and laudable motive with which the protection was given, that he exhibited as an evidence of guilt;* yet it was produced to insinuate, that Lord George Gordon, knowing himself to be the ruler of those villains, set himself up as a saviour from their fury. We called Lord Stormont to explain this matter to you, who told you that Lord George Gordon came to Buckingham House, and begged to see the King, saying, he might be of great use in quelling the riots; and can there be on earth a greater proof of conscious innocence? for if he had been the wicked mover of them, would he have gone to the King to have confessed it, by offering to recall his followers from the mischiefs he had provoked? No! But since, notwithstanding a public protest issued by himself and the Association, reviling the authors of mischief, the Protestant cause was still made the pretext, he thought his public exertions might be useful, as they might tend to remove the prejudices which wicked men had diffused. The King thought so likewise, and, therefore (as appears by Lord Stormont), refused to see Lord George till he had given the test of his loyalty by such exertions. But sure I am, our gracious Sovereign meant no trap for innocence, nor ever recommended it as such to his servants.

"Lord George's language was simply this:—'The multitude pretended to be perpetrating these acts, under the authority of the Protestant petition; I assure your Majesty they are not the Protestant Association, and I shall be glad to be of any service in suppressing them.' I say, by God, that man is a ruffian, who shall, after this, presume to build upon such honest, artless conduct, as an evidence of guilt. Gentlemen, if Lord George Gordon had been guilty of high treason (as is assumed to-day) in the face of the whole Parliament, how are all its members to defend themselves from the mis-

* A witness, of the name of Richard Pond, called in support of the prosecution, had sworn, that, hearing his house was about to be pulled down, he applied to the prisoner for protection, and in consequence received the following document signed by him:—"All true friends to Protestants, I hope, will be particular, and do no injury to the property of any true Protestant, as I am well assured the proprietor of this house is a staunch and worthy friend to the cause.—G. Gordon."

prision* of suffering such a person to go at large and to approach his Sovereign? The man who conceals the perpetration of treason, is himself a traitor; but they are all perfectly safe, for nobody thought of treason till fears arising from another quarter bewildered their senses. The King, therefore, and his servants, very wisely accepted his promise of assistance, and he flew with honest zeal to fulfil it. Sir Philip Jennings Clerke tells you, that he made use of every expression which it was possible for a man in such circumstances to employ. He begged them, for God's sake, to disperse and go home; declared his hope, that the petition would be granted, but that rioting was not the way to effect it. Sir Philip said he felt himself bound, without being particularly asked, to say everything he could in protection of an injured and innocent man, and repeated again, that there was not an art which the prisoner could possibly make use of, that he did not zealously employ; but that it was all in vain. 'I began,' says he, 'to tremble for myself, when Lord George read the resolution of the House, which was hostile to them, and said their petition would not be taken into consideration till they were quiet.' But did he say, '*Therefore, go on to burn and destroy?*' On the contrary, he helped to pen that motion, and read it to the multitude, *as one which he himself had approved.* After this he went into the coach with Sheriff Pugh, in the city; and there it was, in the presence of the very magistrate, whom he was assisting to keep the peace, that he *publicly* signed the protection which has been read in evidence against him; although Mr. Fisher, who now stands in my presence, confessed, in the Privy Council, that he himself had granted similar protections to various people—*yet he was dismissed, as having done nothing but his duty.*

"This is the plain and simple truth; and for this just obedience to his Majesty's request, do the King's servants come to-day into his court, where he is supposed in person to sit, to turn that obedience into the crime of high treason, and to ask you to put him to death for it.

"Gentlemen, you have now heard, upon the solemn oaths of honest, disinterested men, a faithful history of the conduct of Lord George Gordon, from the day that he became a member of the Protestant Association, to the day that he was committed a prisoner to the Tower. And I have no doubt, from the attention with which I have been honoured from the beginning, that you have still kept in your minds the principles to which I entreated you would apply it, and that you have measured it by that standard.

"You have, therefore, only to look back to the whole of it together; to reflect on all you have heard concerning him; to trace him in your recollection, through every part of the transaction; and, considering it with one manly liberal view, to ask your own honest hearts, whether you can say that this noble and unfortunate youth is a wicked and deliberate traitor, who

† Misprision of treason consists in the bare knowledge and concealment of treason, without any degree of assent thereto, for any assent makes the party a principal traitor.—BLACKSTONE, COMM. iv. 120.

deserves by your verdict to suffer a shameful and ignominious death, which will stain the ancient honours of his house for ever.

"The crime which the Crown would have fixed upon him is, that he assembled the Protestant Association round the House of Commons, not merely to influence and persuade Parliament by the earnestness of their supplications, but actually to coerce it by hostile rebellious force; that finding himself disappointed in the success of that coercion, he afterwards incited his followers to abolish the legal indulgences to Papists, which the object of the petition was to repeal, by the burning of their houses of worship, and the destruction of their property, which ended at last in a general attack on the property of all orders of men, religious and civil, on the public treasures of the nation, and on the very being of the government.*

"To support a charge of so atrocious and unnatural a complexion, the laws of the most arbitrary nations would require the most incontrovertible proof. Either the villain must have been taken in the overt act of wickedness, or, if he worked in secret upon others, his guilt must have been brought out by the discovery of a conspiracy, or by the consistent tenor of criminality; the very worst inquisitor that ever dealt in blood would vindicate the torture, by plausibility at least, and by the semblance of truth.

"What evidence, then, will a jury of Englishmen expect from the servants of the Crown of England, before they deliver up a brother accused before them, to ignominy and death? What proof will their consciences require? What will their plain and manly understandings accept of? What does the immemorial custom of their fathers, and the written law of this land, warrant them in demanding? Nothing less, in any case of blood, than the clearest and most unequivocal conviction of guilt. But in this case the act has not even trusted to the humanity and justice of our general law, but has said, in plain, rough, expressive terms—*proveably*—that is, says Lord Coke, *not upon conjectural presumptions, or inferences, or strains of wit*, but upon direct and plain proof. 'For the King, Lords, and Commons,' continues that great lawyer, 'did not use the word *probably*, for then a common argument might have served; but *proveably*, which signifies the highest force of demonstration.' And what evidence, Gentlemen of the Jury, does the Crown offer to you in compliance with these sound and sacred doctrines of justice? A few broken, interrupted, disjointed words, without context or connexion—uttered by the speaker in agitation and heat—heard, by those who relate them to you, in the midst of tumult and confusion—and even those words, mutilated as they are, in direct opposition to, and inconsistent with, repeated and earnest declarations delivered at the very same time and on the very same occasion, related to you by a much greater number of persons, and absolutely incompatible with the whole tenor of his conduct. Which of us all, Gentlemen, would be safe, standing at the bar of God or man, if we were not to be judged

* At the time of the interference of the military, the mob had attacked the Pay Office, and were attempting to break into the Bank; and, to aid the work of the incendiaries, a large party had been sent to cut the pipes of the New River.

by the regular current of our lives and conversations, but by detached and unguarded expressions, picked out by malice, and recorded, without context or circumstances, against us? Yet such is the only evidence, on which the Crown asks you to dip your hands, and to stain your consciences, in the innocent blood of the noble and unfortunate youth who stands before you—on the single evidence of the words you have heard from their witnesses, (for of what but words have you heard?)—which, even if they had stood uncontroverted by the proofs that have swallowed them up, or unexplained by circumstances which destroy their malignity, could not, at the very worst, amount in law to more than a breach of the act against tumultuous petitioning (if such an act still exists); since the worst malice of his enemies has not been able to bring up one single witness to say, that he ever *directed*, *countenanced*, or *approved* rebellious force against the legislature of this country. It is, therefore, a matter of astonishment to me, that men can keep the natural colour in their cheeks, when they ask for human life, even on the Crown's original case, though the prisoner had made no defence. But will they still continue to ask for it after what they have heard? I will just remind the Solicitor-General, before he begins his reply, what matter he has to encounter. He has to encounter this:—That the going up in a body was not even originated by Lord George, but by others in his absence—that when proposed by him officially as Chairman, it was adopted by the *whole* Association, and consequently was *their* act as much as his—that it was adopted, not in a conclave, but with open doors, and the resolution published to all the world—that it was known of course to the ministers and magistrates of the country, who did not even signify to him, or to any body else, its illegality or danger—that decency and peace were enjoined and commanded—that the regularity of the procession, and those badges of distinction, which are now cruelly turned into the charge of an hostile array against him, were expressly and publicly directed for the preservation of peace and the prevention of tumult—that while the House was deliberating, he repeatedly entreated them to behave with decency and peace, and to retire to their houses; though he knew not that he was speaking to the enemies of his cause—that when they at last dispersed, no man thought or imagined that treason had been committed—that he retired to bed, where he lay unconscious that ruffians were ruining him, by their disorders in the night—that on Monday he published an advertisement, reviling the authors of the riots: and, as the Protestant cause had been wickedly made the pretext for them, solemnly enjoined all who wished well to it to be obedient to the laws (nor has the Crown even attempted to prove that he had either given, or that he afterwards gave, secret instructions in opposition to that public admonition)—that he afterwards begged an audience to receive the King's commands—that he waited on the Ministers—that he attended his duty in Parliament—and, when the multitude (amongst whom there was not a man of the associated Protestants) again assembled on the Tuesday, under pretence of the Protestant cause, he offered his services, and read a resolution of the House to them, accompanied with every expostulation

which a zeal for peace could possibly inspire—that he afterwards, in pursuance of the King's direction, attended the magistrates in their duty; honestly and honourably exerting all his powers to quell the fury of the multitude; a conduct which, to the dishonour of the Crown, has been scandalously turned against him, by criminating him with protections granted publicly in the coach of the Sheriff of London, whom he was assisting in his office of magistracy; although protections of a similar nature were, to the knowledge of the whole Privy Council, granted by Mr. Fisher himself, who now stands in my presence unaccused and unreproved, but who, if the Crown that summoned him durst have called him, would have dispersed to their confusion the slightest imputation of guilt.

"What, then, has produced this trial for high treason; or given it, when produced, the seriousness and solemnity it wears? what, but the inversion of all justice, by judging from *consequences*, instead of from *causes* and *designs?* what, but the artful manner in which the Crown has endeavoured to blend the petitioning in a body, and the zeal with which an animated disposition conducted it, with the melancholy crimes that followed? crimes, which the shameful indolence of our magistrates—which the total extinction of all police and government suffered to be committed in broad day, and in the delirium of drunkenness, by an unarmed banditti, without a head—without plan or object—and without a refuge from the instant gripe of justice: a banditti, with whom the associated Protestants, and their President, had no manner of connexion, and whose cause they overturned, dishonoured, and ruined.

"How unchristian, then, is it to attempt, without evidence, to infect the imaginations of men who are sworn dispassionately and disinterestedly to try the trivial offence of assembling a multitude with a petition to repeal a law (which has happened so often in all our memories), by blending it with the fatal catastrophe, on which every man's mind may be supposed to retain some degree of irritation? O fie! O fie! Is the intellectual seat of justice to be thus impiously shaken? Are your benevolent propensities to be thus disappointed and abused? Do they wish you, while you are listening to the evidence, to connect it with unforeseen consequences, in spite of reason and truth? Is it their object to hang the millstone of prejudice around his innocent neck to sink him? If there be such men, may Heaven forgive them for the attempt, and inspire you with fortitude and wisdom, to discharge your duty with calm, steady, and reflecting minds.

"Gentlemen, I have no manner of doubt that you will. I am sure you cannot but see, notwithstanding my great inability, increased by a perturbation of mind (arising, thank God! from no dishonest cause), that there has been not only no evidence on the part of the Crown, to fix the guilt of the late commotions upon the prisoner, but that, on the contrary, we have been able to resist the probability, I might almost say the possibility, of the charge, not only by living witnesses, whom we only ceased to call because the trial would never have ended, but by the evidence of all the blood that has paid the forfeit of that guilt already; an evidence that I will take upon me to say is

the strongest, and most unanswerable, which the combination of natural events ever brought together since the beginning of the world for the deliverance of the oppressed: since in the late numerous trials for acts of violence and depredation, though conducted by the ablest servants of the Crown, with a laudable eye to the investigation of the subject which now engages us, no one fact appeared, which showed any plan, any object, any leader; since, out of forty-four thousand persons, who signed the petition of the Protestants, not one was to be found among those who were convicted, tried, or even apprehended on suspicion; and since, out of all the felons who were let loose from prisons, and who assisted in the destruction of our property, not a single wretch was to be found, who could even attempt to save his own life by the plausible promise of giving evidence to-day.

"What can overturn such a proof as this? Surely a good man might, without superstition, believe, that such a union of events was something more than natural, and that a Divine Providence was watchful for the protection of innocence and truth.

"I may now, therefore, relieve you from the pain of hearing me any longer, and be myself relieved from speaking on a subject which agitates and distresses me. Since Lord Gorge Gordon stands clear of every hostile act or purpose against the Legislature of his country, or the properties of his fellow-subjects—since the whole tenor of his conduct repels the belief of the *traitorous intention* charged by the indictment—my task is finished. I shall make no address to your passions—I will not remind you of the long and rigorous imprisonment he has suffered; I will not speak to you of his great youth, of his illustrious birth, and of his uniformly animated and generous zeal in Parliament for the constitution of his country. Such topics might be useful in the balance of a doubtful case; yet even then I should have trusted to the honest hearts of Englishmen to have felt them without excitation. At present, the plain and rigid rules of justice and truth are sufficient to entitle me to your verdict."

The Solicitor-General having replied, Lord Mansfield summed up: and the Jury, after retiring to consider, returned a verdict of "Not guilty."

Speech in support of a rule for a new trial of the indictment against the Dean of St. Asaph, for publishing a seditious libel, 15th November, 1784.

In the year 1783, when public attention was directed to the necessity of reform in Parliament, Mr. Jones (afterwards Sir William Jones, one of the judges of the Supreme Court at Bengal), composed a tract in furtherance of that measure, under the title of "A Dialogue between a Farmer and a Country Gentleman, on the Principles of Government," in which he explained, in a familiar style, the leading principles of government, and the existing defects in the representation of the people in Parliament. Shortly afterwards, Sir W. Jones, having married the eldest daughter of the Dean of St. Asaph,

the latter became acquainted with the tract, and, highly approving it, submitted it to a committee of gentlemen in Flintshire, who had formed themselves into an association for the promotion of reform. These gentlemen were so pleased with the tract as to pass a vote in approbation of it. In consequence of this, the court party took umbrage, and, violently upbraiding the Committee for their open adoption of the pamphlet, publicly branded the dialogue with the most opprobrious epithets; whereupon the Dean of St. Asaph, considering himself implicated, and that the best means of vindicating the work and its supporters would be to submit it to public opinion, decided on adopting that course; and, prefixing a short preface explaining his motives, issued it to the public. For this publication, which the government declined to notice, an indictment was preferred against the Dean, by Mr. Fitzmaurice, brother of the Marquis of Lansdowne; and the indictment, having been removed by *certiorari* to the Court of King's Bench, came on for trial at the assizes at Shrewsbury, in August, 1784. Mr. Erskine, in his speech for the defence, insisted on two great principles:—1st, That the jury were not restricted to finding the mere fact of the publishing, without regard to the nature of the matter published, but that they had the right of determining whether the matter charged in the indictment as a libel were a libel or not; and, 2ndly, That the intention and motive in the publishing must be taken into consideration, and that, if the publication was not with a criminal motive, it could not be held as libellous. In summing up the case to the jury, Mr. Justice Buller, after denying his right, as judge, to say whether the pamphlet were a libel or not, directed them that, if they were satisfied that the defendant published the pamphlet in point of fact, they were bound to return a verdict of 'Guilty,' leaving the question as to the libellous nature of the publication for the decision of the Court. The jury having brought in a verdict of "Guilty of publishing only," a warm discussion took place between the Judge and Mr. Erskine as to how it should be recorded; and the verdict ultimately taken was, that the Dean "was guilty of publishing, but whether a libel or not they did not find."

In Michaelmas term following (Nov. 8), Mr. Erskine moved for a new trial, on the ground of misdirection of the Judge; and a rule *nisi* having been granted, the same came on for argument on the 15th of November, when Mr. Erskine, in its support, made the following speech, which Mr. Fox repeatedly pronounced to be, in his opinion, the finest argument in the English language:—

"I am now to have the honour to address myself to your lordship in support of the rule granted to me by the Court upon Monday last; which, as Mr. Bearcroft has truly said, and seemed to mark the observation with peculiar emphasis, is a rule for a new trial. Much of my argument, according to his notion, points another way; whether its direction be true, or its force adequate to the object, it is now my business to show.

"In rising to speak at this time, I feel all the advantage conferred by the

reply over those whose arguments are to be answered; but I feel a disadvantage likewise which must suggest itself to every intelligent mind. In following the objections of so many learned persons, offered under different arrangements upon a subject so complicated and comprehensive, there is much danger of being drawn from that method and order, which can alone fasten conviction upon unwilling minds, or drive them from the shelter which ingenuity never fails to find in the labyrinth of a desultory discourse.

"The sense of that danger, and my own inability to struggle against it, led me originally* to deliver to the Court certain written and maturely considered propositions, from the establishment of which I resolved not to depart, nor to be removed, either in substance or in order, in any stage of the proceedings, and by which I must therefore this day unquestionably stand or fall.

"Pursuing this system, I am vulnerable two ways, and in two ways only. Either it must be shown that my propositions are not valid in law; or, admitting their validity, that the learned Judge's charge to the Jury at Shrewsbury was not repugnant to them: there can be no other possible objections to my application for a new trial. My duty to-day is, therefore, obvious and simple: it is, first, to re-maintain those propositions; and then to show, that the charge delivered to the Jury at Shrewsbury was founded upon the absolute denial and reprobation of them.

"I begin, therefore, by saying again, in my own original words, that when a bill of indictment is found, or an information filed, charging any crime or misdemeanour known to the law of England, and the party accused puts himself upon the country by pleading the general issue—not guilty; the Jury are GENERALLY charged with his deliverance from that CRIME, and not SPECIALLY from the *fact* or *facts*, in the commission of which the indictment or information charges the crime to consist; much less from any single fact, to the exclusion of others charged upon the same record.

"Secondly, that no act, which the law in its general theory holds to be criminal, constitutes in itself a crime, abstracted from the mischievous *intention* of the actor: and that the intention, even where it becomes a simple inference of legal reasons from a fact or facts established, may and ought to be collected by the Jury, with the Judge's assistance; because the act charged, though established as a fact in a trial on the general issue, does not necessarily and unavoidably establish the criminal intention by any abstract conclusion of law: the establishment of the fact being still no more than full *evidence* of the crime, but not the crime itself; unless the Jury render it so themselves, by referring it voluntarily to the Court by special verdict.

"These two propositions, though worded with cautious precision, and in technical language, to prevent the subtlety of legal disputation in opposition to the plain understanding of the world, neither do nor were intended to convey any other sentiment than this: viz., that in all cases where the law either directs or permits a person accused of a crime to throw himself upon a

* On moving for the rule *Nisi*.

Jury for deliverance, by pleading *generally* that he is not guilty; the Jury, thus legally appealed to, may deliver him from the accusation by a general verdict of acquittal founded (as in common sense it evidently must be) upon an investigation as general and comprehensive as the charge itself from which it is a general deliverance.

"Having said this, I freely confess to the Court, that I am much at a loss for any further illustration of my subject; because I cannot find any matter by which it might be further illustrated, so clear, or so indisputable, either in fact or in law, as the very proposition itself which upon this trial has been brought into question. Looking back upon the ancient constitution, and examining with painful research the original jurisdictions of the country, I am utterly at a loss to imagine from what sources these novel limitations of the rights of Juries are derived. Even the bar is not yet trained to the discipline of maintaining them. My learned friend Mr. Bearcroft * solemnly abjures them:—he repeats to-day what he avowed at the trial, and is even jealous of the imputation of having meant less than he expressed; for when speaking this morning of the *right* of the Jury to judge of the whole charge, your Lordship corrected his expression, by telling him he meant the *power*, and not the *right;* he caught instantly at your words, disavowed your explanation, and, with a consistency which does him honour, declared his adherence to his original admission in its full and obvious extent. 'I did not mean,' said he, 'merely to acknowledge that the Jury have the *power;* for their power nobody ever doubted; and, if a judge was to tell them they had it not, they would only have to laugh at him, and convince him of his error, by finding a general verdict which must be recorded: I meant, therefore, to consider it as a *right*, as an important privilege, and of great value to the constitution.'

"Thus Mr. Bearcroft and I are perfectly agreed; I never contended for more than he has voluntarily conceded. I have now his express authority for repeating, in my own former words, that the Jury have not merely the *power* to acquit, upon a view of the whole charge, without control or punishment, and without the possibility of their acquittal being annulled by any other authority; but that they have *a constitutional, legal right to do it; a right fit to be exercised;* and intended by the wise founders of the government, to be a protection to the lives and liberties of Englishmen, against the encroachments and perversions of authority in the hands of fixed magistrates.

"But this candid admission on the part of Mr. Bearcroft, though very honourable to himself, is of no importance to me; since, from what has already fallen from your Lordship, I am not to expect a ratification of it from the Court; it is therefore my duty to establish it. I feel all the importance of my subject, and nothing shall lead me to-day to go out of it. I claim all the attention of the Court, and the right to state every authority which applies in my judgment to the argument, without being supposed to introduce them for other purposes than my duty to my client and the constitution of my country warrants and approves.

* One of the counsel for the prosecution.

"It is not very usual, in an English court of justice, to be driven back to the earliest history and original elements of the constitution, in order to establish the first principles which mark and distinguish English law:—they are always assumed, and, like axioms in science, are made the foundations of reasoning without being proved. Of this sort our ancestors, for many centuries, must have conceived the right of an English jury to decide upon every question which the forms of the law submitted to their final decision; since, though they have immemorially exercised that supreme jurisdiction, we find no trace in any of the ancient books of its ever being brought into question. It is but as yesterday, when compared with the age of the law itself, that judges, unwarranted by any former judgments of their predecessors, without any new commission from the Crown, or enlargement of judicial authority from the legislature, have sought to fasten a limitation upon the rights and privileges of jurors, totally unknown in ancient times, and palpably destructive of the very end and object of their institution.

"No fact, my lord, is of more easy demonstration; for the history and laws of a free country lie open—even to vulgar inspection.

"During the whole Saxon era, and even long after the establishment of the Norman government, the whole administration of justice, criminal and civil, was in the hands of the people, without the control or intervention of any judicial authority, delegated to fixed magistrates by the Crown. The tenants of every manor administered civil justice to one another in the court-baron of their lord; and their crimes were judged of in the leet, every suitor of the manor giving his voice as a juror, and the steward being only the registrar, and not the judge. On appeals from these domestic jurisdictions to the county court, and to the tourn of the sheriff, or in suits and prosecutions originally commenced in either of them, the sheriff's authority extended no further than to summon the jurors, to compel their attendance, ministerially to regulate their proceedings, and to enforce their decisions;* and even

* The constitution of the county court in the Saxon era is involved in much doubt. Hallam, speaking of it (Mid. Ages, ii., 392), says, "In this assembly, held monthly, or, at least, more than once in the year (for there seems some ambiguity, or, perhaps, fluctuation, as to this point), by the bishop, and the alderman or earl, or, in his absence, the sheriff, the oath of allegiance was administered to all freemen, breaches of the peace were inquired into, crimes were investigated, and claims were determined. I assign all these functions to the county court, upon the supposition, that no other subsisted during the Saxon times, and that the separation of the sheriff's tourn for criminal jurisdiction had not yet taken place; which, however, I cannot pretend to determine."

It seems very questionable, whether, in the county court, the disputes were submitted to juries taken from the same rank in life as the suitors. The authorities tend to show (see Hallam, Mid. Ages, ii., 394, and note), that the thanes (the owners of land, or gentry), and they alone, to the exclusion of all inferior freemen, were the judges of civil controversies; and the questions submitted to them were decided according to the majority of voices. The inferior freemen, or ceorls, were called on to attend the meetings, as suitors to the court, but only on account of the oath of allegiance which they were to take, or other duties which they owed, and not to exercise any judicial power; "unless we conceive that the disputes of the ceorls were decided by judges of their own rank." The evidence of trial by jury during the Anglo-Saxon age is, at most, dubious.

where he was specially empowered by the King's writ of *justicies** to proceed in causes of superior value, no judicial authority was thereby conferred upon himself, but only a more enlarged jurisdiction ON THE JURORS, who were to try the cause mentioned in the writ.

"It is true that the sheriff cannot now intermeddle in pleas of the Crown; but with this exception, which brings no restrictions on juries, these jurisdictions remain untouched at this day: intricacies of property have introduced other forms of proceeding, but the constitution is the same.

"This popular judicature was not confined to particular districts, or to inferior suits and misdemeanours, but pervaded the whole legal constitution; for, when the Conqueror, to increase the influence of his crown, erected that great superintending court of justice in his own palace, to receive appeals criminal and civil from every court in the kingdom, and placed at the head of it the *capitalis justiciarius totius Angliæ*,† of whose original authority the chief justice of this court is but a partial and feeble emanation: even that great magistrate was in the *aula regis* merely ministerial; every one of the King's tenants, who owed him service in right of a barony, had a seat and a voice in that high tribunal; and the office of justiciar was but to record and to enforce their judgments.

"In the reign of King Edward the First, when this great office was abolished, and the present courts at Westminster established by a distribution of its powers,‡ the barons preserved that supreme superintending jurisdiction which never belonged to the justiciar, but to themselves only as the jurors in the King's court; a jurisdiction which, when nobility, from being territorial and feodal, became personal and honorary, was assumed and exercised by the peers of England, who, without any delegation of judicial authority from the Crown, form to this day the supreme and final court of English law, judging in the last resort for the whole kingdom, and sitting upon the lives of the peerage, in their ancient and genuine character, as the *pares* of one another.§

"When the courts at Westminster were established in their present forms,

* The Writ of Justicies was a writ directed to the sheriff in some special cases, by virtue of which he might hold plea of debt in his county court for a large sum, whereas, by his ordinary power, he was limited to sums under forty shillings.

† The King's Court was composed of the Chief Justiciary, the Chancellor, the Constable, Marshal, Chamberlain, Steward, and Treasurer, with any others whom the King might appoint. The Court of Exchequer, in which all revenue matters were transacted, formed a branch of this court. The Chief Justiciary was the greatest subject in England: besides presiding in the King's court, and in the Exchequer, he was originally, by virtue of his office, the Regent of the kingdom during the absence of the Sovereign.

‡ Though Edward settled the jurisdiction of the several courts, the separation of the Exchequer first, and afterwards of the Common Pleas, from the King's Court, took place long before. The detachment of the latter had its beginning, in Madox's opinion, as early as in the reign of Richard I.; but it was completely established by the Magna Charta of 17 John, and then first made stationary at Westminster.

§ During a trial before the House of Peers, every Peer present on the trial is to judge both of the law and the fact. *Foster*, 142. Hence no special verdict can be given on the trial of a Peer.

and when the civilisation and commerce of the nation had introduced more intricate questions of justice, the judicial authority in civil cases could not but enlarge its bounds ; the rules of property in a cultivated state of society became by degrees beyond the compass of the unlettered multitude ; and in certain well-known restrictions undoubtedly fell to the judges; yet more, perhaps, from necessity than by consent, as all judicial proceedings were artfully held in the Norman language,* to which the people were strangers.

" Of these changes in judicature, immemorial custom, and the acquiescence of the legislature, are the evidence which establish the jurisdiction of the Courts on the true principle of English law, and measure the extent of it by their ancient practice.

" But no such evidence is to be found of the least relinquishment or abridgment of popular judicature, *in cases of crimes ;* on the contrary, every page of our history is filled with the struggles of our ancestors for its preservation.

" The law of property changes with new objects, and becomes intricate as it extends its dominion; but crimes must ever be of the same easy investigation—they consist wholly in intention, and the more they are multiplied by the policy of those who govern, the more absolutely the public freedom depends upon the people's preserving the entire administration of criminal justice to themselves. In a question of property between two private individuals, the Crown can have no possible interest in preferring the one to the other; but it may have an interest in crushing both of them together, in defiance of every principle of humanity and justice, if they should put themselves forward in a contention for public liberty, against a government seeking to emancipate itself from the dominion of the laws. No man in the least acquainted with the history of nations, or of his own country, can refuse to acknowledge, that if the administration of criminal justice were left in the hands of the Crown, or its deputies, no greater freedom could possibly exist, than government might choose to tolerate from the convenience or policy of the day.

" My lord, this important truth is no discovery or assertion of mine, but is to be found in every book of the law: whether we go up to the most ancient authorities, or appeal to the writings of men of our own times, we meet with it alike in the most emphatical language. Mr. Justice Blackstone, by no means biassed towards democratical government, having in the third volume of his Commentaries explained the excellence of the trial by jury in civil cases, expresses himself thus (vol. iv. p. 349): 'But it holds much stronger in criminal cases, since, in times of difficulty and danger, more is to be apprehended from the violence and partiality of judges appointed by the Crown, in suits between the King and the subject, than in disputes between one individual and another, to settle the boundaries of private property. Our law has, therefore, wisely placed this strong and twofold barrier of a presentment and trial by jury, between the liberties of the people and the prerogative

† All pleadings were, by order of William I., conducted in Norman-French. By act 36 Edward III., cap. 15 (A.D. 1363), the use of the French language in legal proceedings was abolished.

of the Crown: without this barrier, justices of *oyer* and *terminer* named by the Crown might, as in France or in Turkey, imprison, dispatch, or exile, any man that was obnoxious to government, by an instant declaration that such was their will and pleasure. So that the liberties of England cannot but subsist so long as this palladium remains sacred and inviolate, not only from all open attacks, which none will be so hardy as to make, but also from all secret machinations, which may sap and undermine it.'

"But this remark, though it derives new force in being adopted by so great an authority, was no more original in Mr. Justice Blackstone than in me: the institution and authority of juries is to be found in Bracton, who wrote about five hundred years before him. 'The *curia* and the *pares*,' says he, 'were necessarily the judges in all cases of life, limb, crime, and disherison of the heir *in capite*. The King could not decide, for then he would have been both prosecutor and judge; nether could his justices, for they represent him.'

"Notwithstanding all this, the learned Judge was pleased to say, at the trial, that there was no difference between civil and criminal cases.* I say, on the contrary, independent of these authorities, that there is not, even to vulgar observation, the remotest similitude between them.

"There are four capital distinctions between prosecutions for crimes, and civil actions, every one of which deserves consideration.

"First, in the jurisdiction necessary to found the charge.

"Secondly, in the manner of the defendant's pleading to it.

"Thirdly, in the authority of the verdict which discharges him.

"Fourthly, in the independence and security of the jury from all the consequences in giving it.

"As to the first, it is unnecessary to remind your lordships, that, in a civil case, the party who conceives himself aggrieved, states his complaint to the court—avails himself at his own pleasure of its process—compels an answer from the defendant by its authority—or, taking the charge *pro confesso* against him on his default, is entitled to final judgment and execution for his debt, without any interposition of a jury. But in criminal cases it is otherwise; the court has no cognisance of them, without leave from the people forming a grand inquest.† If a man were to commit a capital offence in the face of all the judges of England, their united authority could not put him upon his

* In his charge to the jury, Mr. Justice Buller had said, "The law acts equally and justly, as the pamphlet itself states: it is equal between the prosecutor and defendant: and whatever appears upon the record is not for our decision here, but may be the subject of future consideration in the court out of which the record comes: and afterwards, if either party thinks fit, they have a right to carry it to the *dernier resort*, and have the opinion of the House of Lords upon it; and therefore that has been the uniform and established answer, *not only in criminal but civil cases. The law is the same in both, and there is not a gentleman round this table who does not know that is the constant and uniform answer which is given in such cases.*"

† The intervention of a grand jury is not necessary where the prisoner is committed for trial by the coroner.

trial: they could file no complaint against him, even upon the records of the supreme criminal court, but could only commit him for safe custody, which is equally competent to every common justice of the peace—the grand jury alone could arraign him, and in their discretion might likewise finally discharge him, by throwing out the bill, with the names of all your lordships as witnesses on the back of it. If it shall be said, that this exclusive power of the grand jury does not extend to lesser misdemeanours, which may be prosecuted by information; I answer, that for that very reason it becomes doubly necessary to preserve the power of the other jury which is left. In the rules of pleading, there is no distinction between capital and lesser offences; and the defendant's plea of not guilty (which universally prevails as the legal answer to every information or indictment, as opposed to special pleas to the court in civil actions), and the necessity imposed upon the Crown to join the general issue, are absolutely decisive of the present question.

"Every lawyer must admit, that the rules of pleading were originally established to mark and to preserve the distinct jurisdictions of the court and the jury, by a separation of the law from the fact, wherever they were intended to be separated. A person charged with owing a debt, or having committed a trespass, &c., &c., if he could not deny the facts on which the actions were founded, was obliged to submit his justification for matter of law by a special plea to the court upon the record; to which plea the plaintiff might demur,* and submit the legal merits to the judges. By this arrangement, no power was ever given to the Jury, by an issue joined before them, but when a right of decision, as comprehensive as the issue, went along with it: if a defendant in such civil actions pleaded the general issue instead of a special plea, aiming at a general deliverance from the charge, by showing his justification to the Jury at the trial; the court protected its own jurisdiction, by refusing all evidence of the facts on which such justification was founded. The extension of the general issue beyond its ancient limits, and in deviation from its true principle, has introduced some confusion into this simple and harmonious system; but the law is substantially the same. No man, at this day, in any of those actions where the ancient forms of our jurisprudence are still wisely preserved, can possibly get at the opinion of a jury upon any question, not intended by the constitution for their decision. In actions of debt, detinue, breach of covenant, trespass, or replevin, the defendant can only submit the mere fact to the Jury; the law must be pleaded to the Court: if, dreading the opinion of the judges, he conceals his justification under the cover of a general plea, in hopes of a more favourable construction of his defence at the trial, its very existence can never even come within the knowledge of the jurors; every legal defence must arise out of facts, and the authority of the judge is interposed, to prevent their appearing before a tribunal which, in such cases, has no competent jurisdiction over them.

"By imposing this necessity of pleading every legal justification to the

* *I. e.*, might allege, that, admitting the facts, the justification set up is not sufficient in law, which would be a question for the decision of the Court, and not of the Jury.

court, and by this exclusion of all evidence on the trial beyond the negation of the fact, the courts indisputably intended to establish, and did in fact effectually secure,the judicial authority over legal questions from all encroachment or violation ; and it is impossible to find a reason in law, or in common sense, why the same boundaries between the fact and the law should not have been at the same time extended to criminal cases by the same rules of pleading, if the jurisdiction of the Jury had been designed to be limited to the fact, as in civil actions.

"But no such boundary was ever made or attempted; on the contrary, every person, charged with any crime by an indictment or information, has been in all times, from the Norman conquest to this hour, not only permitted, but even bound, to throw himself upon his country for deliverance, by the general plea of 'Not guilty;' and may submit his whole defence to the Jury, whether it be a negation of the fact, or a justification of it in law ; * and the judge has no authority, as in a civil case, to refuse such evidence at the trial, as out of the issue, and as *coram non judice;* an authority which in common sense he certainly would have, if the Jury had no higher jurisdiction in the one case than in the other. The general plea thus sanctioned by immemorial custom, so blends the law and the fact together, as to be inseparable but by the voluntary act of the Jury in finding a special verdict: the general investigation of the whole charge is therefore before them ; and although the defendant admits the fact laid in the information or indictment, he nevertheless, under his general plea, gives evidence of others which are collateral, referring them to the judgment of the jury, as a legal excuse or justification, and receives from their verdict a complete, general, and conclusive deliverance. †

"Mr. Justice Blackstone, in the fourth volume of his Commentaries, page 339, says, 'The traitorous or felonious intent are the points and very gist of the indictment, and must be answered directly by the general negative, 'Not guilty ;' and the Jury will take notice of any defensive matter, and give their verdict accordingly, as effectually as if it were specially pleaded.'

* Special pleas in criminal cases seldom occur in consequence of the great extent of evidence which may be given under the plea of 'Not Guilty:' but exceptions do occur in which special pleas are necessary ; as, for instance, the pleas of *autrefois acquit*, *autrefois convict*, *autrefois attaint*, and *pardon*. So also demurrers may occur in criminal cases : but till latterly they have been seldom adopted ; as, until the Act 7 Geo. IV. c. 64, *ss.* 20, 21, the defendant might have had the same advantage upon the plea of 'Not Guilty', or by motion in arrest of judgment, that he could have had upon demurrer: but material alteration in this respect was made by that statute.

† The Jury, however, may bring in a special verdict "setting forth all the circumstances of the case, and praying the judgment of the court; whether, for instance, on the facts stated, it be murder, manslaughter, or no crime at all. This is where they *doubt* the matter of law, and therefore *choose* to leave it to the determination of the court; though they have an unquestionable right of determining upon all the circumstances, and finding a general verdict if they think proper so to hazard a breach of their oaths; and if their verdict be notoriously wrong, they may be punished, and the verdict set aside by attaint at the suit of the King, but not at the suit of the prisoner."—Blackstone, Comm. IV. c. 27.

"This, therefore, says Sir Matthew Hale, in his Pleas of the Crown, page 258, is, upon all accounts, the most advantageous plea for the defendant: 'It would be a most unhappy case for the Judge himself, if the prisoner's fate depended upon his directions—unhappy also for the prisoner; for if the Judge's opinion must rule the verdict, the trial by jury would be useless.'

"My lord, the conclusive operation of the verdict when given, and the security of the Jury from all consequences in giving it, render the contrast between criminal and civil cases striking and complete. No new trial can be granted, as in a civil action: your lordships, however you may disapprove of the acquittal, have no authority to award one; for there is no precedent of any such upon record; and the discretion of the Court is circumscribed by the law.

"Neither can the jurors be attainted by the Crown. In Bushel's case, Vaughan's Reports, page 146, that learned and excellent judge expressed himself thus:—'There is no case in all the law, of an attaint* for the King, nor any opinion but that of Thyrning's, 10th of Henry IV., title Attaint, 60 and 64, for which there is no warrant in law, though there be other specious authority against it, touched by none that have argued this case.'"

Lord Mansfield. "To be sure it is so."

Mr. Erskine. "Since that is clear, my lord, I shall not trouble the Court further upon it. Indeed I have not been able to find any one authority for such an attaint, but a *dictum* in Fitzherbert's Natura Brevium, page 107; and, on the other hand, the doctrine of Bushel's case is expressly agreed to in very modern times: vide Lord Raymond's Reports, vol. i., p. 469.

"If, then, your lordships reflect but for a moment upon this comparative view of criminal and civil cases which I have laid before you, how can it be seriously contended, not merely that there is no difference, but that there is any the remotest similarity between them? In the one case, the power of accusation begins from the Court; in the other from the people only; forming a grand jury. In the one, the defendant must plead a special justification, the merits of which can only be decided by the judges; in the other, he may throw himself for general deliverance upon his country. In the first, the Court may award a new trial, if the verdict for the defendant be contrary to the evidence or the law; in the last, it is conclusive and unalterable; and, to crown the whole, the King never had that process of attaint which belonged to the meanest of his subjects.

"When these things are attentively considered, I might ask those who are still disposed to deny the right of the jury to investigate the whole charge, whether such a solecism can be conceived to exist in any human government, much less in the most refined and exalted in the world, as that a power of supreme judicature should be conferred at random by the blind forms of the law, where no right was intended to pass with it; and which

* An attaint is a writ to inquire whether a jury of twelve men gave a false verdict (*Finch*, 484), that so the judgment following thereupon may be reversed, and the Jury punished. Very few instances of attaints appear later than the sixteenth century.

was, upon no occasion and under no circumstance, to be exercised; which, though exerted notwithstanding, in every age and in a thousand instances, to the confusion and discomfiture of fixed magistracy, should never be checked by authority, but should continue on from century to century; the revered guardian of liberty and of life, arresting the arm of the most headstrong governments in the worst of times, without any power in the Crown or its judges to touch, without its consent, the meanest wretch in the kingdom, or even to ask the reason and principle of the verdict which acquits him. That such a system should prevail in a country like England, without either the original institution or the acquiescing sanction of the Legislature, is impossible. Believe me, my lord, no talents can reconcile, no authority can sanction, such an absurdity: the common sense of the world revolts at it.

"Having established this important right in the Jury, beyond all possibility of cavil or controversy, I will now show your lordship that its existence is not merely consistent with the theory of the law, but is illustrated and confirmed by the universal practice of all judges; not even excepting Mr. Justice Forster himself, whose writings have been cited in support of the contrary opinion. How a man expresses his abstract ideas is but of little little importance when an appeal can be made to his plain directions to others, and to his own particular conduct: but even none of his expressions, when properly considered and understood, militate against my position.

"In his justly celebrated book on the Criminal Law, page 256, he expresses himself thus:—'The construction which the law putteth upon fact STATED AND AGREED OR FOUND by a jury, *is in all cases undoubtedly the proper province of the Court.*' Now, if the adversary is disposed to stop here, though the author never intended he should, as is evident from the rest of the sentence, yet I am willing to stop with him, and to take it as a substantive proposition; for the slightest attention must discover that it is not repugnant to anything which I have said. Facts *stated and agreed*, or facts *found*, by a jury, which amount to the same thing, constitute a special verdict; and who ever supposed that the law upon a special verdict was not the province of the Court? Where, in a trial upon a general issue, the parties choose to agree upon facts and to state them, or the Jury choose voluntarily to find them without drawing the legal conclusion themselves, who ever denied that in such instances the Court is to draw it? That Forster meant nothing more than that the Court was to judge of the law, when the Jury thus voluntarily prays its assistance by special verdict, is evident from his words which follow; for he immediately goes on to say—'*In cases of doubt and real difficulty, it is therefore commonly recommended to the Jury to state facts and circumstances in a special verdict:*' but neither here, nor in any other part of his works, is it said or insinuated that they are *bound* to do so, but at their own free discretion. Indeed, the very term *recommended*, admits the contrary, and requires no commentary. I am sure I shall never dispute the wisdom or expediency of such a recommendation

in those cases of doubt, because the more I am contending for the existence of such an important right, the less it would become me to be the advocate of rashness and precipitation in the exercise of it. It is no denial of jurisdiction to tell the greatest magistrate upon earth to take good counsel in cases of real doubt and difficulty. Judges upon trials, whose authority to state the law is indisputable, often refer it to be more solemnly argued before the Court; and this Court itself often holds a meeting of the twelve judges before it decides on a point upon its own records, of which the others have confessedly no cognisance till it comes before them by the writ of error of one of the parties. These instances are monuments of wisdom, integrity, and discretion; but they do not bear, in the remotest degree, upon jurisdiction: the sphere of jurisdiction is measured by what may or may not be decided by any given tribunal with legal effect, not by the rectitude or error of the decision. If the Jury, according to these authorities, may determine the whole matter by their verdict, and if the verdict, when given, is not only final and unalterable, but must be enforced by the authority of the judges, and executed, if resisted, by the whole power of the state—upon what principle of government or reason can it be argued not to be law? That the Jury are in this exact predicament is confessed by Forster; for he concludes with saying, that *when the law is clear, the Jury, under the direction of the Court, in point of law may, and if they are well advised will, always find a general verdict conformably to such directions.*

"This is likewise consistent with my position: if the law be clear, we may presume that the Judge states it clearly to the Jury; and if he does, undoubtedly the Jury, if they are well advised, will find according to such directions; for they have not a capricious discretion to make law at their pleasure, but are bound in conscience, as well as judges are, to find it truly; and, generally speaking, the learning of the Judge who presides at the trial affords them a safe support and direction.

"The same practice of judges in stating the law to the Jury, as applied to the particular case before them, appears likewise in the case of the King against Oneby, 2nd Lord Raymond, page 1494. 'On the trial the Judge directs the Jury thus: If you believe such and such witnesses who have sworn to such and such facts, *the killing of the deceased appears to be with malice prepense:* but if you do not believe them, then you ought to find him guilty of manslaughter; and the Jury may, if they think proper, give a general verdict of murder or manslaughter: *but if they decline* giving a general verdict, and *will* find the facts specially, the Court is then to form their judgment from the facts found, whether the defendant be guilty or not guilty, that is, whether the act was done with malice and deliberation, or not.' Surely language can express nothing more plainly or unequivocally, than that where the general issue is pleaded to an indictment, the law and the fact are both before the Jury; and that the former can never be separated from the latter, for the judgment of the Court, unless by their own spontaneous act: for the words are, 'If they *decline* giving a general verdict,

and *will* find the facts specially, the Court is *then* to form their judgment from the facts found.' So that, after a general issue joined, the authority of the Court only commences when the Jury chooses to decline the decision of the law by a general verdict; the right of declining which legal determination is a privilege conferred on them by the statute of Westminster 2nd, and by no means a restriction of their powers.

"But another very important view of the subject remains behind: for, supposing I had failed in establishing that contrast between criminal and civil cases, which is now too clear not only to require, but even to justify another observation, the argument would lose nothing by the failure; the similarity between criminal and civil cases derives all its application to the argument from the learned Judge's supposition, that the jurisdiction of the Jury over the law was never contended for in the latter, and consequently, on a principle of equality, could not be supported in the former; whereas I do contend for it, and can incontestibly establish it in both. This application of the argument is plain from the words of the charge: 'If the Jury could find the law, it would undoubtedly hold in civil cases as well as criminal; but was it ever supposed that a jury was competent to say the operation of a fine, or a recovery, or a warranty,* which are mere questions of law?'

"To this question I answer, that the competency of the Jury in such cases is contended for to the full extent of my principle, both by Lyttleton and by Coke. They cannot, indeed, decide upon them *de plano*, which, as Vaughan truly says, is unintelligible, because an unmixed question of law can by no possibility come before them for decision; but whenever (which very often happens) the operation of a fine, a recovery, a warranty, or any other record or conveyance known to the law of England comes forward, mixed with the fact on the general issue, the Jury have then most unquestionably a right to determine it; and, what is more, no other authority possibly can; because, when the general issue is permitted by law, these questions cannot appear on the record for the judgment of the Court, and although it can grant a new trial, yet the same question must ultimately be determined by another Jury. This is not only self-evident to every lawyer, but, as I said, is expressly laid down by Lyttleton in the 368th section:

* A fine, which was an amicable composition, originally of an actual, and afterwards of a fictitious suit, was adopted principally as a mode of enabling a tenant in tail to acquire an estate in fee, determinable on the failure of the issue in tail; or to acquire a title by non-claim; or to bar the rights and pass the estates of married women. A common recovery was a judgment recovered in a fictitious suit, and its principal use was to enable a tenant in tail to bar not only the estate tail, but also all remainders over, and to acquire an absolute estate in fee simple. Fines and recoveries are now abolished by 3 and 4 Wm. IV., c. 74, and more simple modes of assurance employed to effect their objects. A warranty was a covenant real annexed to lands, whereby the grantor of the estate, for himself and his heirs, did warrant and secure to the grantee the estate so granted, and covenanted to yield other lands and tenements equal to the value of the estate granted, in case of the grantee being evicted.

—'Also in such case where the inquest may give their verdict at large, if they will take upon them the knowledge of the law upon the matter, they may give their verdict generally as it is put in their charge; as in the case aforesaid they may well say, that the lessor did not disseise the lessee if they will.' Coke, in his commentary on this section, confirms Lyttleton; saying, that in doubtful cases they should find specially for fear of an attaint; and it is plain that the statute of Westminster the 2nd, was made either to give or to confirm the right of the Jury to find the matter specially, leaving their jurisdiction over the law as it stood by the common law. The words of the statute of Westminster 2nd, chapter 30th, are, '*Ordinatum est quod justitiarii ad assisas capiendas assignati,* NON COMPELLANT *juratores dicere precise si sit disseisina vel non; dummodo voluerint dicere veritatem facti et petere auxilium justitiariorum.*' From these words it should appear, that the jurisdiction of the Jury over the law, when it came before them on the general issue, was so vested in them by the constitution, that the exercise of it in all cases had been considered to be compulsory upon them, and that this act was a legislative relief from that compulsion in the case of an assize of disseizin. It is equally plain, from the remaining words of the act, that their jurisdiction remained as before,—'*Sed si sponte velint dicere quod disseisina est vel non, admittatur eorum veredictum sub suo periculo.*'

"But the most material observation upon this statute, as applicable to the present subject, is, that the terror of the attaint from which it was passed to relieve them, having (as has been shown) no existence in cases of crime, the act only extended to relieve the Jury at their discretion from finding the law in civil actions: and, consequently, it is only from custom, and not from positive law, that they are not *even compellable* to give a general verdict involving a judgment of law on every criminal trial.

"These principles and authorities certainly establish, that it is the duty of the Judge, on every trial where the general issue is pleaded, to give to the Jury his opinion on the law as applied to the case before them; and that they must find a general verdict, comprehending a judgment of law, unless they *choose* to refer it specially to the Court.

"But we are here in a case where it is contended, that the duty of the Judge is the direct contrary of this; that he is to give no opinion at all to the Jury upon the law as applied to the case before them; that they likewise are to refrain from all consideration of it, and yet that the very same general verdict, comprehending both fact and law, is to be given by them as if the whole legal matter had been summed up by the one, and found by the other.

"I confess I have no organs to comprehend the principle on which such a practice proceeds. I contended for nothing more at the trial than the very practice recommended by Forster and Lord Raymond. I addressed myself to the Jury upon the law with all possible respect and deference, and, indeed, with very marked personal attention to the learned Judge. So far from urging the Jury dogmatically to think for themselves without his constitutional assistance, I called for his opinion on the question of libel; saying,

that if he should tell them distinctly the paper indicted was libellous, though I should not admit that they were bound at all events to give effect to it if they felt it to be innocent; yet I was ready to agree that they ought not to go against the charge without great consideration; but that if he should shut himself up in silence, giving no opinion at all upon the criminality of the paper from which alone any guilt could be fastened on the publisher, and should narrow their consideration to the *publication*, I entered my protest against their finding a verdict affixing the epithet of *guilty* to the mere fact of publishing a paper, the *guilt* of which had not been investigated. If, after this address to the Jury, the learned Judge had told them, that in his opinion the paper was a libel, but still leaving it to their judgments, and likewise the defendant's evidence to their consideration, had further told them, that he thought it did not exculpate the publication; and if in consequence of such directions the Jury had found a verdict for the Crown, I should never have made my present motion for a new trial; because I should have considered such a verdict of 'Guilty' as founded upon the opinion of the Jury on the whole matter as left to their consideration, and must have sought my remedy by arrest of judgment on the record.

"But the learned Judge took a direct contrary course; he gave no opinion at all on the guilt or innocence of the paper; he took no notice of the defendant's evidence of intention; he told the Jury, in the most explicit terms, that neither the one nor the other were within their jurisdiction; and upon the mere fact of publication directed a general verdict comprehending the epithet of *Guilty*, after having expressly withdrawn from the Jury every consideration of the merits of the paper published, or the intention of the publisher, from which it is admitted on all hands the *guilt* of publication could alone have any existence.

"My motion is, therefore, founded upon this obvious and simple principle—that the defendant has had, in fact, NO TRIAL; having been found *guilty* without any investigation of his *guilt*, and without any power left to the Jury to take cognisance of his innocence. I undertake to show, that the Jury could not possibly conceive or believe, from the Judge's charge, that they had any jurisdiction to acquit him; however they might have been impressed even with the merit of the publication, or convinced of his meritorious intention in publishing it: nay, what is worse, while the learned Judge totally deprived them of their whole jurisdiction over the question of libel, and the defendant's seditious intention, he, at the same time, directed a general verdict of 'Guilty,' which comprehended a judgment upon both.

"When I put this construction on the learned Judge's direction, I found myself wholly on the language in which it was communicated; and it will be no answer to such construction, that no such restraint was meant to be conveyed by it. If the learned Judge's intentions were even the direct contrary of his expressions, yet if, in consequence of that which was expressed though not intended, the Jury were abridged of a jurisdiction which belonged to them by law, and in the exercise of which the defendant had an interest, he is equally a sufferer, and the verdict given under such misconception of

authority is equally void: my application ought, therefore, to stand or fall by the charge itself, upon which I disclaim all disingenuous cavilling. I am certainly bound to show, that, from the general result of it, fairly and liberally interpreted, the Jury could not conceive that they had any right to extend their consideration beyond the bare fact of publication, so as to acquit the defendant by a judgment founded on the legality of the dialogue, or the honesty of the intention in publishing it.

"In order to understand the learned Judge's direction, it must be recollected that it was addressed to them in answer to me, who had contended for nothing more than that these two considerations ought to rule the verdict; and it will be seen that the charge, on the contrary, not only excluded both of them by general inference, but by expressions, arguments, and illustrations the most studiously selected to convey that exclusion, and to render it binding on the consciences of the Jury. After telling them, in the very beginning of his charge, that the single question for their decision was, whether the defendant had published the pamphlet? he declared to them, that it was not even *allowed to him, as the Judge trying the cause*, to say whether it was or was not a libel: for that if he should say it was no libel, and they, following his direction, should acquit the defendant, they would thereby deprive the prosecutor of his writ of error upon the record, which was one of his dearest birthrights. The law, he said, was equal between the prosecutor and the defendant; that a verdict of acquittal would close the matter for ever, depriving him of his appeal; and that whatever, therefore, was upon the record *was not for their decision*, but might be carried, at the pleasure of either party, to the House of Lords.

"Surely, language could not convey a limitation upon the right of the Jury over the question of libel, or the intention of the publisher, more positive or more universal. It was positive, inasmuch as it held out to them that such a jurisdiction could not be entertained without injustice; and it was universal, because the principle had no special application to the particular circumstances of that trial; but subjected every defendant upon every prosecution for a libel, to an inevitable conviction on the mere proof of publishing *anything*, though both Judge and Jury might be convinced that the thing published was innocent and even meritorious.

"My lord, I make this commentary, without the hazard of contradiction from any man whose reason is not disordered. For if the Prosecutor, in every case, has a birthright by law to have the question of libel left open upon the record, which it can only be by a verdict of conviction on the single fact of publishing; no legal right can at the same time exist in the jury to shut out that question by a verdict of acquittal founded upon the merits of the publication, or the innocent mind of the publisher. Rights that are repugnant and contradictory cannot be co-existent. The jury can never have a constitutional right to do an act beneficial to the defendant, which, when done, deprives the prosecutor of a right which the same constitution has vested in him. No right can belong to one person, the exercise of which, in

every instance, must necessarily work a wrong to another. If the prosecutor of a libel has, in *every* instance, the privilege to try the merits of his prosecution before the Judges, the Jury can have no right, in *any* instance, to preclude his appeal to them, by a general verdict for the defendant.

"The Jury therefore, from this part of the charge, must necessarily have felt themselves absolutely limited (I might say even in their powers) to the fact of publication; because the highest restraint upon good men is to convince them that they cannot break loose from it without injustice: and the power of a good subject is never more effectually destroyed than when he is made to believe that the exercise of it will be a breach of his duty to the public, and a violation of the laws of his country.

"But since equal justice between the prosecutor and the defendant is the pretence for this abridgment of jurisdiction, let us examine a little how it is affected by it. Do the prosecutor and the defendant really stand upon an equal footing, by this mode of proceeding? With what decency this can be alleged, I leave those to answer who know that it is only by the indulgence of Mr. Bearcroft, of counsel for the prosecution, that my reverend client is not at this moment in prison,* while we are discussing this notable equality. Besides, my lord, the judgment of this Court, though not final in the constistution, and therefore not binding on the prosecutor, is absolutelyconclusive on the defendant. If your lordships pronounce the record to contain no libel, and arrest the judgment on the verdict, the prosecutor may carry it to the House of Lords, and, pending his writ of error, it remains untouched by your lordship's decision. But, if judgment be against the defendant, it is only at the discretion of the Crown (as it is said), and not of right, that he can prosecute any writ of error at all; and even if he finds no obstruction in that quarter, it is but at the best an appeal for the benefit of public liberty, from which he himself can have no personal benefit; for the writ of error being no supersedeas, the punishment is inflicted on him in the mean time. In the case of Mr. Horne,† this court imprisoned him for publishing a libel upon its own judgment, pending his appeal from its justice; and he had suffered the utmost rigour which the law imposed upon him as a criminal, at the time that the House of Lords, with the assistance of the twelve judges of England, were gravely assembled to determine whether he had been guilty of any crime. I do not mention this case as hard or rigorous on Mr. Horne, as an individual,—it is the general course of practice; but surely that practice ought to put an end to this argument of equality between prosecutor and prisoner. It is adding insult to injury, to tell an innocent man who is in a duugeon, pending his writ of error, and of whose innocence both Judge and Jury were convinced at the trial, that he is in equal scales with his

* Lord Mansfield ordered the Dean to be committed on the motion for the new trial, and said he had no discretion to suffer him to be at large, without consent, after his appearance in Court, on conviction. Upon which, Mr. Bearcroft gave his consent that the Dean should remain at large upon bail.

† Afterwards Mr. Horne Tooke.

prosecutor, who is at large, because he has an opportunity of deciding after the expiration of his punishment, that the prosecution had been unfounded and his sufferings unjust. By parity of reasoning, a prisoner in a capital case might be hanged in the mean time, for the benefit of equal justice, leaving his executors to fight the battle out with his prosecutor upon the record, through every court in the kingdom; by which at last his attainder might be reversed, and the blood of his posterity remain uncorrupted. What justice can be more impartial or equal?

"So much for this right of the prosecutor of a libel to *compel* a jury, in every case, generally to convict a defendant on the fact of publication, or to find a special verdict,—a right unheard of before since the birth of the constitution,—not even founded upon any equality in fact, even if such a shocking parity could exist in law, and not even contended to exist in any other case, where private men become the prosecutors of crimes for the ends of public justice. It can have, generally speaking, no existence in any prosecution for felony; because the general description of the crime in such indictments, for the most part, shuts out the legal question in the particular instance from appearing on the record: and, for the same reason, it can have no place even in appeals of death, &c., the only cases where prosecutors appear as the revengers of their own private wrongs, and not as the representatives of the Crown.

"The learned Judge proceeded next to establish the same universal limitation upon the power of the Jury, from the history of different trials, and the practice of former judges who presided at them; and while I am complaining of what I conceive to be injustice, I must take care not to be unjust myself. I certainly do not, nor ever did, consider the learned Judge's misdirection in his charge to be peculiar to himself: it was only the resistance of the defendant's evidence, and what passed after the Jury returned into court with the verdict, that I ever considered to be a departure from all precedents: the rest had undoubtedly the sanction of several modern cases; and I wish, therefore, to be distinctly understood, that I partly found my motion for a new trial in opposition to these decisions. It is my duty to speak with deference of all the judgments of this Court; and I feel an additional respect for some of those I am about to combat, because they are your Lordship's; but, comparing them with the judgments of your predecessors for ages, which is the highest evidence of English law, I must be forgiven if I presume to question their authority.

"My lord, it is necessary that I should take notice of some of them as they occur in the learned Judge's charge; for, although he is not responsible for the rectitude of those precedents which he only cited in support of it, yet the defendant is unquestionably entitled to a new trial, if their principles are not ratified by the Court: for whenever the learned Judge cited precedents to warrant the limitation on the province of the Jury imposed by his own authority, it was such an adoption of the doctrines they contained as made them a rule to the Jury in their decision.

"First, then, the learned Judge, to overturn my argument with the Jury for their jurisdiction over the whole charge, opposed your lordship's established practice for eight-and-twenty years; and the weight of this great authority was increased by the general manner in which it was stated; for I find no expressions of your lordship's, in any of the reported cases, which go the length contended for. I find the practice, indeed, fully warranted by them; but I do not meet with the principle, which can alone vindicate that practice, fairly and distinctly avowed. The learned Judge then referred to the charge of Chief Justice Raymond, in the case of the King and Franklin,* in which the universal limitation contended for is indeed laid down, not only in the most unequivocal expressions, but the ancient jurisdiction of juries, resting upon all the authorities I have cited, treated as a ridiculous notion which had been just taken up, a little before the year 1731, and which no man living had ever dreamed of before. The learned Judge observed, that Lord Raymond stated to the Jury on Franklin's trial that there were three questions: the first was, the fact of publishing the "Craftsman"—secondly, whether the averments in the information were true—but that the third, viz., whether it was a libel, was merely a question of *law*, with which the Jury *had nothing to do*, as had been then of late thought by some people who ought to have known better.

"This direction of Lord Raymond's was fully ratified and adopted in all its extent, and given to the Jury, on the present trial, with several others of the same import, as an unerring guide for their conduct; and surely human ingenuity could not frame a more abstract and universal limitation upon their right to acquit the defendant by a general verdict; for Lord Raymond's expressions amount to an absolute denial of the right of the Jury to find the defendant not guilty, if the publication and innuendos are proved. 'Libel or no libel, is a question of law, with which you, the Jury, *have nothing to do.*' How, then, can they have any right to give a general verdict consistently with this declaration? Can any man in his senses collect that he has a right to decide on that with which he has nothing to do?

"But it is needless to comment on these expressions, for the Jury were likewise told by the learned Judge himself that, if they believed the fact of publication, they were *bound* to find the defendant guilty; and it will hardly be contended that a man has a right to refrain from doing that which he is bound to do.

"Mr. Cowper, as counsel for the prosecution, took upon him to explain

* On the trial of the information against Franklin, 1731, for publishing the "Craftsman," Lord Raymond, in summing up, left three questions to the Jury, saying,—"The first is as to the fact of publication; secondly, whether the averments in the information are true, or not; and thirdly, whether it is a libel. There are but two questions for your consideration: the third is merely a question of law, with which the Jury have nothing to do, as has now of late been thought by some people who ought to know better; but we must always take care to distinguish between matters of law and matters of fact, and they are not to be confounded."

what was meant by this expression; and I seek for no other construction: 'The learned Judge,' said he, 'did not mean to deny the right of the Jury, but only to convey, that there was a religious and moral obligation upon them to refrain from the exercise of it.' Now,—if the principle which imposed that obligation had been alleged to be *special*, applying only to the *particular case of the Dean of St. Asaph*, and consequently consistent with the right of the Jury to a more enlarged jurisdiction in *other* instances,—telling the Jury that they were bound to convict, on proof of publication, might be plausibly construed into a recommendation to refrain from the exercise of their right in *that case*, and not to a *general* denial of its existence; but the moment it is recollected that the principle which bound them was not *particular* to the instance, but abstract and universal, binding alike in *every* prosecution for a libel, it requires no logic to pronounce the expression to be an absolute, unequivocal, and universal denial of the right: common sense tells every man, that to speak of a person's right to do a thing, which yet, in every possible instance where it might be exerted he is religiously and morally bound not to exert, is not even sophistry, but downright vulgar nonsense. But the Jury were not only limited by these modern precedents, which certainly have an existence, but were, in my mind, limited with still greater effect by the learned Judge's declaration, that some of those ancient authorities on which I had principally relied for the establishment of their jurisdiction, had not merely been overruled, but were altogether inapplicable. I particularly observed how much ground I lost with the Jury, when they were told from the Bench, that even in Bushel's case, on which I had so greatly depended, the very reverse of my doctrine had been expressly established—the Court having said unanimously in that case, according to the learned Judge's statement, that if the Jury be asked what the law is, they cannot say, and having likewise ratified in express terms the maxim, *Ad quæstionem legis non respondent juratores.*

"My lord, this declaration from the Bench, which I confess not a little staggered and surprised me, rendered it my duty to look again into Vaughan, where Bushel's case is reported. I have performed that duty, and now take upon me positively to say, that the words of Lord Chief Justice Vaughan, which the learned Judge considered as a judgment of the Court, denying the jurisdiction of the Jury over the law, *where a general issue is joined before them*, were, on the contrary, made use of by that learned and excellent person, to expose the fallacy of such a misapplication of the maxim alluded to, by the Counsel against Bushel; declaring that it had no reference to any case where the law and the fact were incorporated by the plea of Not guilty, and confirming the right of the Jury to find the law upon every such issue, in terms the most emphatical and expressive. This is manifest from the whole report.

"Bushel, one of the jurors on the trial of Penn and Mead, had been committed by the Court for finding the defendant not guilty, against the direction of the Court in matter of law; and being brought before the Court of

Common Pleas by *habeas corpus*, this cause of commitment appeared upon the face of the return to the writ. It was contended by the Counsel against Bushel, upon the authority of this maxim, that the commitment was legal, since it appeared by the return, that Bushel had taken upon him to find the law against the direction of the Judge, and had been therefore legally imprisoned for that contempt. It was upon that occasion that Chief Justice Vaughan, with the concurrence of the whole Court, repeated the maxim, *Ad quæstionem legis non respondent juratores*, as cited by the Counsel for the Crown, but denied the application of it to impose any restraint upon jurors trying any crime upon the general issue. His language is too remarkable to be forgotten, and too plain to be misunderstood. Taking the words of the return to the *habeas corpus*, viz., 'That the Jury did acquit against the direction of the Court in matter of law'—'These words,' said this great lawyer, 'taken literally and *de plano*, are insignificant and unintelligible; for no issue can be joined of matter of law; no jury can be charged with the trial of matter of law barely. No evidence ever was or can be given to a jury of what is law or not; nor any oath given to a jury to try matter of law *alone;* nor can any attaint lie for such a false oath. Therefore we must take off this veil and colour of words, which make a show of being something, but are in fact nothing; for if the meaning of these words, '*Finding against the direction of the Court in matter of law*,' be, that if the Judge, having heard the evidence given in court (for he knows no other), shall tell the Jury, upon this evidence, that the law is for the plaintiff or the defendant, and they, under the pain of fine and imprisonment, are to find accordingly, every one sees that the Jury is but a troublesome delay, great charge, and of no use in determining right and wrong; which were a strange and new-found conclusion, after a trial so celebrated for many hundreds of years in this country.'

"Lord Chief Justice Vaughan's argument is, therefore, plainly this:—Adverting to the arguments of the Counsel, he says, You talk of the maxim, *Ad quæstionem legis non respondent juratores;* but it has no sort of application to your subject. The words of your return,—viz., that Bushel did acquit against the direction of the Court in matter of law,—are unintelligible, and, as applied to the case, impossible. The Jury could not be asked, in the abstract, what was the law; they could not have an issue of the law joined before them; they could not be sworn to try it. *Ad quæstionem legis non respondent juratores;* therefore, to say literally and *de plano* that the Jury found the law against the Judge's direction, is absurd. They could not be in a situation to find it,—an unmixed question of law could not be before them,—the Judge could not give any positive directions of law upon the trial; for the law can only arise out of facts, and the Judge cannot know what the facts are till the Jury have given their verdict. Therefore, continued the Chief Justice, let us take off this veil and colour of words, which make a show of being something, but are in fact nothing; let us get rid of the fallacy of applying a maxim, which truly describes the jurisdiction of the Courts over issues of law, to destroy the jurisdiction of jurors, in cases where

law and fact are blended together upon a trial; since, if the Jury at the trial are bound to receive the law from the Judge, every one sees that it is a mere mockery, and of no use in determining right and wrong.

"This is the plain common sense of the argument; and it is impossible to suggest a distinction between its application to Bushel's case and to the present, except that the right of imprisoning the jurors was there contended for, in order to enforce obedience to the directions of the Judge. But this distinction, if it deserves the name, though held up by Mr. Bearcroft as very important, is a distinction without a difference. For if, according to Vaughan, the free agency of the Jury over the whole charge, uncontrolled by the Judge's direction, constitutes the whole of that ancient mode of trial, it signifies nothing by what means that free agency is destroyed; whether by the imprisonment of conscience or of body; by the operation of their virtues or of their fears. Whether they decline exerting their jurisdiction, from being told that the exertion of it is a contempt of religious and moral order, or a contempt of the Court punishable by imprisonment, their jurisdiction is equally taken away.

"My lord, I should be very sorry improperly to waste the time of the Court; but I cannot help repeating once again, that if, in consequence of the learned Judge's directions, the Jury, from a just deference to learning and authority, from a nice and modest sense of duty, felt themselves not at liberty to deliver the defendant from the whole indictment, HE HAS NOT BEEN TRIED: because, though he was entitled by law to plead generally that he was not guilty, though he did in fact plead it accordingly, and went down to trial upon it, but the Jury have not been permitted to try that issue, but have been directed to find at all events a general verdict of guilty, with a positive injunction not to investigate the guilt, or even to listen to any evidence of innocence.

"My lord, I cannot help contrasting this trial with that of Colonel Gordon's but a few sessions past, in London. I had in my hand but this moment, an accurate note of Mr. Baron Eyre's charge to the Jury on that occasion; I will not detain the Court by looking for it amongst my papers, because I believe I can correctly repeat the substance of it."

Earl of Mansfield. "The case of the King against Cosmo Gordon?"

Mr. Erskine. "Yes, my lord: Colonel Gordon was indicted for the murder of General Thomas, whom he had killed in a duel: and the question was, whether, if the Jury were satisfied of that fact, the prisoner was to be convicted of murder? That was, according to Forster, as much a question of law, as libel or no libel; but Mr. Baron Eyre did not, therefore, feel himself at liberty to withdraw it from the Jury. After stating (greatly to his honour) the hard condition of the prisoner, who was brought to a trial for life, in a case where the positive law and the prevailing manners of the times were so strongly in opposition to one another, that he was afraid the punishment of individuals would never be able to beat down an offence so sanctioned; he addressed the Jury nearly in these words: 'Nevertheless, gentlemen, I

am bound to declare to you, what the law is as applied to this case, in all the different views in which it can be considered by you upon the evidence. *Of this law and of the facts as you shall find them, your verdict must be compounded;* and I persuade myself, that it will be such a one as to give satisfaction to your own consciences.'

"Now, if Mr. Baron Eyre, instead of telling the Jury that a duel, however fairly and honourably fought, was murder by the law of England, and, leaving them to find a general verdict under that direction, had said to them, that whether such a duel was murder or manslaughter, was a question with which neither he nor they had anything to do, and on which he should therefore deliver no opinion; and had directed them to find that the prisoner was guilty of killing the deceased in a deliberate duel, telling them, that the Court would settle the rest; that would have been directly consonant to the case of the Dean of St. Asaph. By this direction the prisoner would have been in the hands of the Court, and the Judges, not the Jury, would have decided upon the life of Colonel Gordon.

"But the two learned Judges differ most essentially indeed. Mr. Baron Eyre conceives himself bound in duty to state the law as applied to the particular facts, and to leave it to the Jury. Mr. Justice Buller says, he is not bound nor even allowed so to state or apply it, and withdraws it entirely from their consideration. Mr. Baron Eyre tells the Jury that their verdict is to be compounded of the fact and the law. Mr. Justice Buller, on the contrary, that it is to be confined to the fact only, the law being the exclusive province of the Court. My lord, it is not for me to settle differences of opinion between the Judges of England, nor to pronounce which of them is wrong: but since they are contradictory and inconsistent, I may hazard the assertion that they cannot both be right: the authorities which I have cited, and the general sense of mankind which settles everything else, must determine the rest.

"My lord, I come now to a very important part of the case, untouched, I believe, before in any of the arguments on this occasion.

"I mean to contend, that the learned Judge's charge to the Jury cannot be supported even upon its own principles; for, supposing the Court to be of opinion that all I have said in opposition to these principles is inconclusive, and that the question of libel, and the intention of the publisher, were properly withdrawn from the consideration of the Jury, still I think I can make it appear that such a judgment would only render the misdirection more palpable and striking.

"I may safely assume, that the learned Judge must have meant to direct the Jury either to find a general or a special verdict; or, to speak more generally, that one of these two verdicts must be the object of every charge: because I venture to affirm, that neither the records of the Courts, the reports of their proceedings, nor the writings of lawyers, furnish any account of a third. There can be no middle verdict between both; the Jury must either try the whole issue generally, or find the facts specially, referring the legal conclusion to the Court.

"I may affirm, with certainty, that the general verdict, *ex vi termini*, is universally as comprehensive as the issue, and that, consequently, such a verdict on an indictment, upon the general issue, Not guilty, universally and unavoidably involves a judgment of law, as well as fact; because the charge comprehends both, and the verdict, as has been said, is co-extensive with it. Both Coke and Littleton give this precise definition of a general verdict; for they both say, that if the Jury will find the law, they may do it by a general verdict, which is ever as large as the issue. If this be so, it follows by necessary consequence, that if the Judge means to direct the Jury to find generally against a defendant, he must leave to their consideration everything which goes to the constitution of such a general verdict, and is therefore bound to permit them to come to, and to direct them how to form that general conclusion from the law and the fact, which is involved in the term 'guilty.' For it is ridiculous to say, that guilty is a fact; it is a conclusion of law from a fact, and therefore can have no place in a special verdict, where the legal conclusion is by the Court.

"In this case the defendant is charged not with having published this pamphlet, but with having published a certain false, scandalous, and wicked libel, with a seditious and rebellious intention; he pleads that he is not guilty in manner and form as he is accused; which plea is admitted on all hands to be a denial of the whole charge, and consequently does not merely put in issue the fact of publishing the pamphlet, but the truth of the whole indictment, that is, the publication of the libel set forth in it, with the intention charged by it.

"When this issue comes down for trial, the Jury must either find the whole charge or a part of it; and admitting, for argument sake, that the Judge has a right to dictate either of these two courses, he is undoubtedly bound in law to make his direction to the Jury conformable to the one or the other. If he means to confine the Jury to the fact of publishing, considering the guilt of the defendant to be a legal conclusion for the Court to draw from that fact, specially found on the record, he ought to direct the Jury to find that fact without affixing the epithet of 'guilty' to the finding. But, if he will have a general verdict of 'guilty,' which involves a judgment of law as well as fact, he must leave the law to the consideration of the Jury; since, when the word 'guilty,' is pronouced by them, it is so well understood to comprehend everything charged by the indictment, that the associate or his clerk instantly records, that the defendant is guilty in manner and form as he is accused, that is, not simply that he has *published* the pamphlet contained in the indictment;—but that he is *guilty of publishing the libel with the wicked intentions charged on him by the record.*

"Now, if this effect of a general verdict of 'guilty' is reflected on for a moment, the illegality of directing one upon the bare fact of publishing, will appear in the most glaring colours. The learned Judge says to the Jury, Whether this be a libel is not for your consideration; I can give no opinion on that subject without injustice to the prosecutor; and as to what Mr.

Jones swore* concerning the defendant's motives for the publication, that is likewise not before you: for if you are satisfied in point of fact that the defendant *published* this pamphlet, you are bound to find him *guilty*. Why guilty, my lord, when the consideration of guilt is withdrawn? He confines the Jury to the finding of a fact, and enjoins them to leave the legal conclusion from it to the Court; yet, instead of directing them to make that fact the subject of a special verdict, he desires them in the same breath to find a general one; to draw the conclusion without any attention to the premises: to pronounce a verdict which, upon the face of the record, includes a judgment upon their oaths that the paper is a libel, and that the publisher's intentions in publishing it were wicked and seditious, although neither the one nor the other made any part of their consideration. My lord, such a verdict is a monster in law, without precedent in former times, or root in the constitution. If it be true, on the principle of the charge itself, that the fact of publication was all that the Jury were to find, and all that was necessary to establish the defendant's guilt—if the thing published be a libel, why was not that fact found, like all other facts, upon special verdicts? Why was an epithet, which is a legal conclusion from the fact, extorted from a jury who who were restrained from forming it themselves? The verdict must be taken to be general or special: if general, it has found the whole issue without a co-extensive examination: if special, the word 'guilty,' which is a conclusion from facts, can have no place in it. Either this word 'guilty' is operative or unessential; an epithet of substance, or of form. It is impossible to controvert that proposition, and I give the gentlemen their choice of the alternative. If they admit it to be operative and of real substance, or, to speak more plainly, that the fact of publication found specially, without the epithet of 'guilty,' would have been an imperfect verdict, inconclusive of the defendant's guilt, and on which no judgment could have followed, then it is impossible to deny that the defendant has suffered injustice; because such an admission confesses that a criminal conclusion from a fact has been obtained from the Jury, without permitting them to exercise that judgment which might have led them to a conclusion of innocence; and that the word 'guilty' has been obtained from them at the trial, as a mere matter of form, although the verdict without it, stating only the fact of publication which they were directed to find, to which they thought the finding alone enlarged,

* Mr. Edward Jones was called for the defence, and deposed that he was a member of the Flintshire Committee; that it was intended by them to print the Dialogue in Welsh; that the Dean said he had received the pamphlet so late from Sir William Jones, that he had not had time to read it; that he told the Dean that he had collected the opinions of gentlemen which were, that it might do harm; and that, thereupon, the Dean told him that he was obliged to him for his information; that he should be sorry to publish anything that tended to sedition; and it was for that reason that it was not published in Welsh. He further stated that it was not till after the Dialogue had been spoken of in very opprobrious terms, and the Dean's character reflected on, that the Dean stated he felt bound to show that it was not seditious, and that he ought to publish it in vindication of the Committee.

and beyond which they had never enlarged their inquiry, would have been an absolute verdict of acquittal. If, on the other hand, to avoid this insuperable objection to the charge, the word 'guilty' is to be reduced to a mere word of form, and it is to be contended that the fact of publication, found specially, would have been tantamount; be it so:—let the verdict be so recorded;—let the word 'guilty' be expunged from it, and I instantly sit down;—I trouble your lordships no further:—I withdraw my motion for a new trial, and will maintain in arrest of judgment, that the Dean is not convicted. But if this is not conceded to me, and the word 'guilty,' though argued to be but form, and though, as such, obtained from the Jury, is still preserved upon the record, and made use of against the defendant as substance; it will then become us (independently of all consideration as lawyers), to consider a little how that argument is to be made consistent with the honour of gentlemen, or that fairness of dealing which cannot but have place wherever justice is administered.

"But in order to establish that the word 'guilty' is a word of essential substance; that the verdict would have been imperfect without it; and that therefore the defendant suffers by its insertion; I undertake to show your lordship, upon every principle and authority of law, that if the fact of publication, which was all that was left to the Jury, had been found by special verdict, no judgment could have been given on it.

"My Lord, I will try this by taking the fullest finding which the facts in evidence could possibly have warranted. Supposing then, for instance, that the Jury had found that the defendant published the paper according to the tenor of the indictment; that it was written of and concerning the King and his Government; and that the innuendos were likewise as averred, K. meaning the present King, and P. the present Parliament of Great Britain: on such a finding, no judgment could have been given by the Court, even if the record had contained a complete charge of a libel. No principle is more unquestionable, than that to warrant any judgment upon a special verdict, the Court which can presume nothing that is not visible on the record, must see sufficient matter upon the face of it, which, if taken to be true, is conclusive of the defendant's guilt. They must be able to say, if this record be true, the defendant cannot be innocent of the crime which it charges on him. But, from the facts of such a verdict the Court could arrive at no such legitimate conclusion; for it is admitted on all hands, and indeed expressly laid down by your lordship, in the case of the King against Woodfall, that publication even of a libel is not *conclusive* evidence of guilt; for that the defendant may give evidence of an innocent publication.*

"Looking, therefore, upon a record containing a good indictment of a libel, and a verdict finding that the defendant published it, but without the

* Lord Mansfield's words were, "There may be cases where the fact of the publication even of a libel, may be justified or excused as lawful or innocent; for no fact which is not criminal, even though the paper be a libel, can amount to a publication of which a defendant ought to be found guilty."

epithet of 'guilty,' the Court could not pronounce that he published it with the malicious intention which is the essence of the crime:*—they could not say what might have passed at the trial;—for anything that appeared to them, he might have given such evidence of innocent motive, necessity, or mistake, as might have amounted to excuse or justification. They would say, that the facts stated upon the verdict would have been fully sufficient in the absence of a legal defence, to have warranted the Judge to have directed, and the Jury to have given a general verdict of guilty, comprehending the intention which constitutes the crime; but that to warrant the Bench, which is ignorant of everything at the trial, to presume that intention, and thereupon to pronounce judgment on the record, the Jury must not merely find full evidence of the crime, but such facts as compose its legal definition. This wise principle is supported by authorities which are perfectly familiar.

"If, in an action of trover,† the plaintiff proves property in himself, possession in the defendant, and a demand and refusal of the thing charged to be converted; this evidence unanswered is full proof of a conversion; and if the defendant could not show to the Jury why he had refused to deliver the plaintiff's property on a legal demand of it, the Judge would direct them to find him guilty of the conversion. But on the same facts found by special verdict, no judgment could be given by the Court: the Judges would say, if the special verdict contains the whole of the evidence given at the trial, the Jury should have found the defendant guilty; for the conversion was fully proved; but we cannot declare these facts to amount to a conversion, for the defendant's intention was a fact, which the Jury should have found from the evidence, over which we have no jurisdiction. So, in the case put by Lord Coke‡—I believe in his first institute 115,—If a modus is found to have existed beyond memory till within thirty years before the trial, the Court cannot upon such facts found by special verdict pronounce against the modus: but any one of your lordships would certainly tell the Jury, that upon such evidence they were warranted in finding against it. In all cases of prescription, the universal practice of judges is to direct juries, by analogy to the statute of limitations, to decide against incorporeal rights, which for many

* A libel is defined to be a malicious defamation expressed in printing, or writing, or by signs and pictures, &c., tending to injure the reputation of another; and thereby exposing such person to public hatred, contempt, or ridicule. Malice may be inferred from the libel itself, without any extrinsic evidence of it.

† Trover is an action which may be maintained by any person, who has either an absolute or special property in goods, for recovering the value of such goods from another, who having, or being supposed to have, obtained possession of such goods by lawful means, has wrongfully converted them to his own use.

‡ A *modus decimandi*, commonly called a *modus* only, is where there is, by custom, a particular manner of tithing allowed, different from the general law of taking tithes in kind, which are the actual tenth part of the annual increase. By 2 and 3 Wm. IV. c. 100, the time required to establish a *modus*, is now much shortened; but previously to this act, a *modus*, to be good, must have been proved to have existed from the time of legal memory, that is, from the first year of Richard I., A.D. 1189.

years have been relinquished; but such modern relinquishments, if stated upon the record by special verdict, would in no instance warrant a judgment against any prescription. The principle of the difference is obvious and universal: the Court looking at a record can presume nothing; it has nothing to do with reasonable probabilities, but is to establish legal certainties by its judgments. Every crime is, like every other complex idea, capable of a legal definition: if all the component parts which go to its formation are put as facts upon the record, the Court can pronounce the perpetrator of them a criminal; but if any of them are wanting, it is a chasm in fact, and cannot be supplied. Wherever intention goes to the essence of the charge, it must be found by the Jury; it must be either comprehended under the word guilty in the general verdict, or specifically found as a fact by the special verdict. This was solemnly decided by the Court in Huggins's case, in 2nd Lord Raymond, 1581, which was a special verdict of murder from the Old Bailey. It was an indictment against John Huggins and James Barnes, for the murder of Edward Arne. The indictment charged that Barnes made an assault upon Edward Arne, being in the custody of the other prisoner Huggins, and detained him for six weeks in a room newly built over the common sewer of the prison, where he languished and died: the indictment further charged, that Barnes and Huggins well knew that the room was unwholesome and dangerous: the indictment then charged that the prisoner Huggins, of his malice aforethought, was present, aiding, and abetting Barnes to commit the murder aforesaid. This was the substance of the indictment.

"The special verdict found that Huggins was warden of the Fleet by letters patent: that the other prisoner Barnes was servant to Huggins, deputy in the care of all the prisoners, and of the deceased, a prisoner there. That the prisoner Barnes, on the 7th of September, put the deceased Arne in a room over the common sewer, which had been newly built, knowing it be newly built and damp, and situated as laid in the indictment: *and that, fifteen days before the prisoner's death*, HUGGINS *likewise well knew that the room was new built, damp, and situated as laid. They found that, fifteen days before the death* of the prisoner, Huggins was present in the room, and saw him there under duress of imprisonment, *but then and there turned away, and Barnes locked the door, and that from that time, till his death, the deceased remained locked up.*

"It was argued before the twelve Judges, in Serjeants Inn, whether Huggins was guilty of murder. It was agreed that he was not answerable *criminally*, for the act of his deputy, and could not be guilty, unless the criminal intention was brought personally home to himself. And it is remarkable how strongly the Judges required the fact of knowledge and malice to be stated on the face of the verdict, as opposed to *evidence* of intention, and inference from a fact.

"The Court said, It is chiefly relied on that Huggins was present in the room, and saw Arne *sub duritie imprisonamenti, et se avertit;* but he might be present, and not know all the circumstances; the words are VIDIT *sub duritie;* but he might *see* him under duress, and not *know* he was under duress: it

was answered that, seeing him under duress, evidently means, he knew he was under duress; but, says the Court, ' *We cannot take things by inference in this manner; his seeing is but evidence of his knowledge of these things; and therefore the Jury, if the fact would have borne it, should have found that Huggins knew he was there without his consent; which not being done, we cannot intend these things nor infer them; we must judge of facts, and not from the evidence of facts* ;" and cited Kelynge, 78; that whether a man be aiding and abetting a murder is matter of fact, and ought to be expressly found by a jury.

" The application of these last principles and authorities to the case before the Court is obvious and simple. The criminal intention is a fact, and must be found by the Jury; and that finding can only be expressed upon the record by the general verdict of Guilty which comprehends it, or by the special enumeration of such facts as do not merely amount to evidence of, but which completely and conclusively constitute, the crime. But it has been shown, and is, indeed, admitted, that the publication of a libel is only *prima facie* evidence of the complex charge in the indictment, and not such a fact as amounts in itself, when specially stated, to conclusive guilt; since, as the Judges cannot tell how the criminal inference from the fact of publishing a libel, might have been rebutted at the trial; no judgment can follow from a special finding, that the defendant published the paper indicted, according to the tenor laid in the indictment. It follows from this, that if the Jury had only found the fact of publication, which was all that was left to them, *without affixing the epithet of Guilty*, which could only be legally affixed by an investigation not permitted to them; a *venire facias de novo* must have been awarded because of the uncertainty of the verdict as to the criminal intention: whereas, it will now be argued, that if the Court shall hold the Dialogue to be a libel, the defendant is fully convicted; because the verdict does not merely find that he PUBLISHED, which is a finding consistent with innocence, but finds him GUILTY of publishing, which is a finding of the criminal publication charged by the indictment.

" My lord, how I shall be able to defend my innocent client against such an argument, I am not prepared to say; I feel all the weight of it; but that feeling, surely entitles me to greater attention, when I complain of that which subjects him to it, without the warrant of the law. It is the weight of such an argument that entitles me to a new trial; for the Dean of St. Asaph is not only found guilty, without any investigation of his guilt by the Jury, but without that question being even open to your lordships on the record. Upon the record the Court can only say the Dialogue is, or is not, a libel; but if it should pronounce it to be one, the criminal intention of the defendant in publishing it is taken for granted by the word Guilty; although it has not only not been tried, but evidently appears from the verdict itself, not to have been found by the Jury. Their verdict is, ' Guilty of publishing; but whether a libel or not, they do not find.' And, it is, therefore, impossible to say, that they can have found a criminal motive in publishing a paper, on the crimi-

nality of which they have formed no judgment. Printing and publishing that which is legal, contains in it no crime;—the guilt must arise from the publication of a libel; and, there is, therefore, a palpable repugnancy on the face of the verdict itself, which first finds the Dean guilty of publishing, and then renders the finding a nullity, by pronouncing ignorance in the Jury whether the thing published comprehends any guilt.

"To conclude this part of the subject, the epithet of Guilty—as I set out with at first—must either be taken to be substance, or form. If it be substance, and, as such, conclusive of the *criminal* intention of the publisher, should the thing published be hereafter adjudged to be a libel, I ask a new trial, because the defendant's guilt in that respect has been found without having been tried; if, on the other hand, the word GUILTY is admitted to be but a word of form, then let it be expunged, and I am not hurt by the verdict.

"Having now established, according to my two first propositions, that the Jury upon every general issue, joined in a criminal case, have a constitutional jurisdiction over the whole charge; I am next, in support of my third, to contend, that the case of a libel forms no legal exception to the general principles which govern the trial of all other crimes; that the argument for the difference,—viz., because the whole charge always appears on the record—is false in fact, and that, even if true, it would form no substantial difference in law.

"As to the first, I still maintain that the whole case does by no means necessarily appear on the record. The Crown may indict part of the publication, which may bear a criminal construction when separated from the context, and the context omitted having no place in the indictment, the defendant can neither demur to it, nor arrest the judgment after a verdict of Guilty; because the Court is absolutely circumscribed by what appears on the record, and the record contains a legal charge of a libel.

"I maintain, likewise, that, according to the principles adopted upon this trial, he is equally shut out from such defence before the Jury; for though he may read the explanatory context in evidence, yet he can derive no advantage from reading it, if they are tied down to find him guilty of publishing the matter which is contained in the indictment, however its innocence may be established by a view of the whole work. The only operation which, looking at the context, it can have upon a jury is, to convince them that the matter upon the record, however libellous when taken by itself, was not intended to convey the meaning which the words indicted import in language, when separated from the general scope of the writing: but upon the principle contended for, they could not acquit the defendant upon any such opinion, for that would be to take upon them the prohibited question of libel, which is said to be matter of law for the Court.

"My learned friend, Mr. Bearcroft, appealed to his audience with an air of triumph, whether any sober man could believe, that an English Jury, in the case I put from Algernon Sidney, would convict a defendant of publishing

the Bible, should the Crown indict a member of a verse which was blasphemous in itself if separated from the context.* My lord, if my friend had attended to me, he would have found, that, in considering such supposition as an absurdity, he was only repeating my own words. I never supposed that a jury would act so wickedly, or so absurdly, in a case where the principle contended for by my friend Mr. Bearcroft carried so palpable a face of injustice, as in the instance which I selected to expose it; and which I therefore selected to show, that there were cases in which the supporters of the doctrine were ashamed of it, and obliged to deny its operation: for it is impossible to deny that, if the Jury can look at the context, in the case put by Sidney, and acquit the defendant on the merits of the thing published, they may do it in cases which will directly operate against the principle he seems to support. This will appear from other instances, where the injustice is equal, but not equally striking.

"Suppose the Crown were to select some passage from Locke, upon Government; as, for instance, 'that there was no difference *between the King and the Constable, when either of them exceeded their authority.*' That assertion, under certain circumstances, if taken by itself, without the context, might be highly seditious, and the question, therefore, would be, *quo animo* it was written:—perhaps the real meaning of the sentence might not be discoverable by the immediate context without a view of the whole chapter,—perhaps of the whole book; therefore—to do justice to the defendant, upon the the very principle by which Mr. Bearcroft, in answering Sidney's case, can alone acquit the publisher of his Bible,—the Jury must look into the whole Essay on Government, and form a judgment of the design of the author, and the meaning of his work."

Lord Mansfield. "To be sure they may judge from the whole work."

Mr. Erskine. "And what is this, my lord, but determining the question of libel which is denied to day? for, if a jury may acquit the publisher of any part of Mr. Locke on Government, from a judgment arising out of a view of the whole book, though there be no innuendos† to be filled up as facts in the indictment,—what is it that bound the Jury to convict the Dean of St. Asaph, as the publisher of Sir William Jones's Dialogue, on the bare fact, of publication, without the right of saying that his observations as well as Mr. Locke's, were speculative, abstract, and legal?"

* The case supposed a bookseller having published the Bible, and being indicted thus, "That, intending to promote atheism and irreligion, he had blasphemously printed and published, the following false and profane libel—'There is no God;'" and, in moving for the Rule *Nisi*, Mr. Erskine argued, that consistently with the principles which governed the Judge, in the Dean of St. Asaph's case, the Court would in such a case forbid the Jury looking at the context, by which it would appear that the words formed part only of a verse in the Psalms, 'The fool hath said in his heart, there is no God,' and would direct them only to consider the fact, whether the defendant published the words laid in the indictment.

† By innuendos in indictments and other pleadings, is meant, an explanation of a

Lord Mansfield. "They certainly may, in all cases, go into the whole context."

Mr. Erskine. "And why may they go into the context? Clearly, my lord, to enable them to form a correct judgment of the meaning of the part indicted, even though no particular meaning be submitted to them by averments in the indictment; and, therefore, the very permission to look at the context for such a purpose (where there are no innuendos to be filled up by them as facts), is a palpable admission of all I am contending for, namely, the right of the Jury to judge of the merits of the paper, and the intention of its author.

"But it is said, that, though a jury have a right to decide that a paper, criminal as far as it appears on the record, is, nevertheless, legal when explained by the whole work of which it is a part; yet, that they shall have no right to say that the whole work itself, if it happens to be all indicted, is innocent and legal. This proposition, my lord, upon the bare stating of it, seems too preposterous to be seriously entertained; yet there is no alternative between maintaining it in its full extent, and abandoning the whole argument.

"If the defendant is indicted for publishing part of the verse in the Psalms, 'There is no God,' it is asserted that the Jury may look at the context, and, seeing that the whole verse did not maintain that blasphemous proposition, but only that the fool had said so in his heart, may acquit the defendant upon a judgment that it is no libel to impute such imagination to a fool: but if the whole verse had been indicted, namely, 'The fool has said in his heart, There is no God;' the Jury, on the principle contended for, would be restrained from the same judgment of its legality, and must convict of blasphemy on the fact of publishing, leaving the question of libel untouched on the record.

"If, in the same manner, only part of this very dialogue had been indicted instead of the whole, it is said, even by your lordship, that the Jury might have read the context, and then, nothwithstanding the fact of publishing, might have collected from the whole its abstract and speculative nature, and have acquitted the defendant upon that judgment of it; and yet it is contended that they have no right to form the same judgment of it upon the present occasion, although the whole be before them upon the face of the indictment, but are bound to convict the defendant upon the fact of publishing, notwithstanding they should have come to the same judgment of its legality, which it is admitted they might have come to, on trying an indictment for the publication of a part. Really, my lord, the absurdities and

word, by reference to something that has preceded it. An innuendo can only explain in cases where something already appears upon the record to ground the explanation. Thus, in an action against a man for the words "He is a thief," if, in any previous part of the record, the words had been charged to have been spoken of and concerning the plaintiff, in any subsequent part, the defendant's meaning in the use of the word "*He,*" in "*He is a thief,*" may be explained by innuendo, "*thereby meaning the said plaintiff.*"

gross departures from reason, which must be hazarded to support this doctrine, are endless.

"The criminality of the paper is said to be a question of law, yet the meaning of it, from which alone the legal interpretation can arise, is admitted to be a question of fact. If the text be so perplexed and dubious as to require innuendos to explain, to point and to apply obscure expression or construction, the Jury alone, as judges of fact, are to interpret and to say what sentiments the author must have meant to convey by his writing: yet, if the writing be so plain and intelligible as to require no averments of its meaning, it then becomes so obscure and mysterious as to be a question of law, and beyond the reach of the very same men, who, but a moment before, were interpreters for the Judges; and though its object be most obviously peaceable and its author innocent, they are bound to say upon their oaths, that it is wicked and seditious, and the publisher of it guilty.

"As a question of fact the Jury are to try the real sense and construction of the words indicted, by comparing them with the context; and yet, if that context itself, which affords the comparison, makes part of the indictment, the whole becomes a question of law, and they are then bound down to convict the defendant on the fact of publishing it, without any jurisdiction over the meaning. To complete the juggle, the intention of the publisher may likewise be shown as a fact, by the evidence of any extrinsic circumstances, such as the context, to explain the writing, or the circumstances of mistake or ignorance under which it was published; and yet, in the same breath, the intention is pronounced to be an inference of law from the act of publication, which the Jury cannot exclude, but which must depend upon the future judgment of the Court.

"But the danger of this system is no less obvious than its absurdity. I do not believe that its authors ever thought of inflicting death upon Englishmen, without the interposition of a jury; yet its establishment would unquestionably extend to annihilate the substance of that trial in every prosecution for high treason, where the publication of any writing was laid as the overt act. I illustrated this by a case, when I moved for a rule, and called upon my friends for an answer to it; but no notice has been taken of it by any of them. This was just what I expected: when a convincing answer cannot be found to an objection, those who understand controversy never give strength to it by a weak one.

"I said, and I again repeat, that if an indictment charges that a defendant did traitorously intend, compass, and imagine the death of the King; and, in order to carry such treason into execution, published a paper, which it sets out *literatim* on the face of the record, the principle which is laid down to-day would subject that person to the pains of death by the single authority of the Judges, without leaving anything to the Jury, but the bare fact of publishing the paper. For, if that fact were proved and the defendant called no witnesses, the Judge who tried him would be warranted, nay bound in duty by the principle in question, to say to the Jury,—Gentlemen, the

overt act of treason charged upon the defendant, is the publication of this paper, intending to compass the death of the King; the fact is proved, and you are therefore bound to convict him: the treasonable intention is an inference of law from the act of publishing; and if the thing published does not, upon a future examination, intrinsically support that inference, the Court will arrest the judgment, and your verdict will not affect the prisoner.

"My lord, I will rest my whole argument upon the analogy between these two cases, and give up every objection to the doctrine when applied to the one, if, upon the strictest examination, it shall not be found to apply equally to the other.

"If the seditious intention be an inference of law, from the fact of publishing the paper which this indictment charges to be a libel,—is not the treasonable intention equally an inference from the fact of publishing that paper, which the other indictment charges to be an overt act of treason? In the one case, as in the other, the writing or publication of a paper is the whole charge; and the substance of the paper so written or published makes all the difference between the two offences. If that substance be matter of law where it is a seditious libel, it must be matter of law where it is an act of treason: and if, because it is law, the Jury are excluded from judging it in the one instance, their judgment must suffer an equal abridgment in the other.

The consequence is obvious. If the Jury, by an appeal to their consciences, are to be thus limited in the free exercise of that right which was given them by the constitution, to be a protection against judicial authority, where the weight and majesty of the Crown is put into the scale against an obscure individual,—the freedom of the press is at an end: for how can it be said that the press is free because everything may be published without a previous license, if the publisher of the most meritorious work which the united powers of genius and patriotism ever gave to the world may be prosecuted by information of the King's Attorney-General, without the consent of the Grand Jury,—may be convicted by the Petty Jury, on the mere fact of publishing (who indeed, without perjuring themselves, must on this system inevitably convict him), and must then depend upon Judges, who may be the supporters of the very Administration whose measures are questioned by the defendant, and who must therefore either give judgment against him or against themselves.

"To all this Mr. Bearcroft shortly answers, Are you not in the hands of the same judges, with respect to your property, and even to your life, when special verdicts are found in murder, felony, and treason? In these cases do prisoners run any hazard from the application of the law by the Judges, to the facts found by the Juries? Where can you possibly be safer?

"My lord, this is an argument which I can answer without indelicacy or offence, because your lordship's mind is much too liberal to suppose that I insult the Court by general observations on the principles of our legal government. However safe we might be, or might think ourselves, the constitution never intended to invest judges with a discretion, which cannot be tried

and measured by the plain and palpable standard of law; and in all the cases put by Mr. Bearcroft, no such loose discretion is exercised as must be entertained by a judgment on a seditious libel, and therefore the cases are not parallel.

"On a special verdict for murder, the life of the prisoner does not depend upon the religious, moral, or philosophical ideas of the Judges, concerning the nature of homicide: no; precedents are searched for, and if he is condemned at all, he is judged exactly by the same rule as others have been judged by before him; his conduct is brought to a precise, clear, intelligible standard, and cautiously measured by it: it is the law, therefore, and not the Judge, which condemns him. It is the same in all indictments, or civil actions, for slander upon individuals.

"Reputation is a personal right of the subject—indeed, the most valuable of any—and it is, therefore, secured by law, and all injuries to it clearly ascertained. Whatever slander hurts a man in his trade—subjects him to danger of life, liberty, or loss of property—or tends to render him infamous—is the subject of an action, and, in some instances, of an indictment.* But in all these cases, where the *malus animus* is found by the Jury, the Judges are in like manner a safe repository of the legal consequence; because such libels may be brought to a well-known standard of strict and positive law: they leave no discretion in the Judges. The determination of what words, when written or spoken of another, are actionable, or the subject of an indictment, leaves no more latitude to a court sitting in judgment on the record, than a question of title does in a special verdict in ejectment.

"But I beseech your lordship to consider by what rule the legality or illegality of this Dialogue is to be decided by the Court as a question of law upon the record. Mr. Bearcroft has admitted, in the most unequivocal terms—what, indeed, it was impossible for him to deny—that every part of it, when viewed in the abstract, was legal; but he says, there is a great distinction to be taken between speculation and exhortation, and that it is this latter which makes it a libel. I readily accede to the truth of the observation; but how your lordship is to determine that difference as a question of law, is past my comprehension; for if the Dialogue, in its phrase and composition, be general, and its libellous tendency arises from the purpose of the writer to raise discontent by a seditious application of legal doctrines, that purpose is surely a question of fact, if ever there was one, and must therefore be distinctly averred in the indictment, to give the cognizance of it as a fact to the Jury, without which no libel can possibly appear upon the record. This is well known to be the only office of the innuendo; because the Judges can presume nothing, which the strictest rules of grammar do not warrant them to collect intrinsically from the writing itself.

"Circumscribed by the record, your lordship can form no judgment of the

* The general rule is, that wherever an action will lie for slander, without laying special damage, an indictment will lie for the same words, if reduced to writing and published.

tendency of this Dialogue to excite sedition by anything but the mere words. You must look at it as if it was an old manuscript dug out of the ruins of Herculaneum: you can collect nothing from the time when, or the circumstances under which, it was published—the person by whom, and those amongst whom, it was circulated; yet these may render a paper, at one time and under some circumstances, dangerously wicked and seditious, which, at another time and under different circumstances, might be innocent and highly meritorious. If puzzled by a task so inconsistent with the real sense and spirit of judicature, your lordship should spurn the fetters of the record, and, judging with the reason rather than the infirmities of men, should take into your consideration the state of men's minds on the subject of equal representation at this moment, and the great disposition of the present times to revolution in government,—if, reading the record with these impressions, your lordships should be led to a judgment not warranted by an abstract consideration of the record,—then, besides that such a judgment would be founded on facts not in evidence before the Court, and not within its jurisdiction if they were, let me further remind your lordships that, even if those objections to the premises were removed, the conclusion would be no conclusion of law. Your decision on the subject might be very sagacious as politicians, as moralists, as philosophers, or as licensers of the press; but they would have no resemblance to the judgments of an English court of justice, because it could have no warrant from the act of your predecessors, nor afford any precedent to your successors.

"But all these objections are perfectly removed, when the seditious tendency of a paper is considered as a question of fact: we are then relieved from the absurdity of legal discussion, separated from all the facts from which alone the law can arise; for the Jury can do what (as I observed before) your lordships cannot do in judging by the record,—they can examine by evidence all those circumstances that tend to establish the seditious tendency of the paper, from which the Court is shut out—they may know themselves, or it may be proved before them, that it has excited sedition already—they may collect from witnesses that it has been widely circulated and seditiously understood—or, if the prosecution (as is wisest) precedes these consequences, and the reasoning must be *a priori*, surely gentlemen living in the country are much better judges than your lordship, what has or has not a tendency to disturb the neighbourhood in which they live, and that very neighbourhood is the forum of criminal trial.

"If they know that the subject of the paper is the topic that agitates the country around them,—if they see danger in that agitation, and have reason to think that the publisher must have intended it,—they say he is guilty. If, on the other hand, they consider the paper to be legal, and enlightened in principle, likely to promote a spirit of activity and liberty in times when the activity of such a spirit is essential to the public safety, and have reason to believe it to be written and published in that spirit, they say, as they ought to do, that the writer or the publisher is not guilty. Whereas your lordships' judgment upon the language of the record must ever be in the

pure abstract; operating blindly and indiscriminately upon all times, circumstances, and intentions; making no distinction between the glorious attempts of a Sidney or a Russel, struggling against the terrors of despotism under the Stuarts, and those desperate adventurers of the year forty-five, who libelled the person, and excited rebellion against the mild and gracious government, of our late excellent sovereign King George the Second.

"My lord, if the independent gentlemen of England are thus better qualified to decide from cause of knowledge, it is no offence to the Court to say, that they are full as likely to decide with impartial justice as judges appointed by the Crown. Your lordships have but a life interest in the public property, but they have an inheritance in it for their children. Their landed property depends upon the security of the government, and no man who wantonly attacks it can hope or expect to escape from the selfish lenity of a jury. On the first principles of human action they must lean heavily against him. It is only when the pride of Englishmen is insulted by such doctrines as I am opposing to-day, that they may be betrayed into a verdict delivering the guilty, rather than surrender the rights by which alone innocence in the day of danger can be protected.

"I venture, therefore, to say, in support of one of my original propositions, that—where a writing indicted as a libel neither contains, nor is averred by the indictment to contain, any slander of an individual, so as to fall within those rules of law which protect personal reputation, but whose criminality is charged to consist, as in the present instance, in its tendency to stir up general discontent—the trial of such an indictment neither involves, nor can in its obvious nature involve, any abstract question of law for the judgment of a court, but must wholly depend upon the judgment of the Jury on the tendency of the writing itself to produce such consequences, when connected with all the circumstances which attended its publication.

"It is unnecessary to push this part of the argument further, because I have heard nothing from the Bar against the position which it maintains; none of the gentlemen have, to my recollection, given the Court any one single reason, good or bad, why the *tendency* of a paper to stir up discontent against Government, separated from all the circumstances which are ever shut out from the record, ought to be considered as an abstract question of law. They have not told us where we are to find any matter in the books, to enable us to argue such questions before the Court; or where your lordships yourselves are to find a rule for your judgments on such subjects. I confess that to me it looks more like legislation, or arbitrary power, than English judicature. If the Court can say, this is a criminal writing—*not* because we know that mischief was intended by its author, or is even contained in itself, but because fools, believing the one and the other, may do mischief in their folly,—the suppression of such writings under particular circumstances may be wise policy in a state; but upon what principle it can be criminal law in England, to be settled in the abstract by judges, I confess with humility that I have no organs to understand.

"Mr. Leycester felt the difficulty of maintaining such a proposition by any argument of law, and therefore had recourse to an argument of fact. 'If,' says my learned friend, 'what is or is not a seditious libel, be not a question of law for the Court, but of fact for the Jury, upon what principle do defendants, found guilty of such libels by a general verdict, defeat the judgment for error on the record; and what is still more in point, upon what principle does Mr. Erskine himself, if he fails in his present motion, mean to ask your lordships to arrest this very judgment by saying that the Dialogue is not a libel?'

"My lord, the observation is very ingenious, and God knows the argument requires that it should; but it is nothing more. The arrest of judgment which follows after a verdict of Guilty for publishing a writing, which on inspection of the record exhibits to the Court no specific offence against the law, is no impeachment of my doctrine. I never denied such a jurisdiction to the Court. My position is, that no man shall be punished for the criminal breach of any law, until a jury of his equals have pronounced him guilty in mind as well as in act. *Actus non facit reum nisi mens sit rea.*

"But I never asserted that a jury had the power to make criminal law, as well as to administer it; and therefore it is clear that they cannot deliver over a man to punishment, if it appears by the record of his accusation—which it is the office of judicature to examine—that he has not offended against any positive law; because, however criminal he may have been in his disposition, which is a fact established by the verdict, yet statute and precedents can alone decide what is by law an *indictable* offence.

"If, for instance, a man were charged by an indictment with having held a discourse in words highly seditious, and were found guilty by the Jury, it is evident that it is the province of the Court to arrest that judgment; because, though the Jury have found that he spoke the words as laid in the indictment, with the seditious intention charged upon him, which they, and they only, could find; yet, as the words are not punishable by indictment, as when committed to writing, the Court could not pronounce judgment: the declaration of the Jury, that the defendant was guilty in manner and form as accused, could evidently never warrant a judgment, if the accusation itself contained no charge of an offence against the law.

"In the same manner, if a butcher were indicted for privately putting a sheep to causeless and unnecessary torture in the exercise of his trade, but not in public view, so as to be productive of evil example, and the Jury should find him guilty, I am afraid that no judgment could follow; because, though done *malo animo*, yet neither statute nor precedent have perhaps determined it to be an indictable offence: it would be difficult to draw the line. An indictment would not lie for every inhuman neglect of the sufferings of the smallest innocent animals which Providence has subjected to us:

> "'Yet the poor beetle, which we tread upon,
> In corporal suffering feels a pang as great
> As when a giant dies.'

"A thousand other instances might be brought of acts base and immoral, and prejudicial in their consequences, which are yet not indictable by law.

"In the case of the King against Brewer, in Cowper's Reports, it was held that *knowingly* exposing to sale and selling gold under sterling for standard gold is not indictable; because the act refers to goldsmiths only, and private cheating is not a common-law offence.* Here, too, the declaration of the Jury that the defendant is guilty in manner and form as accused, does not change the nature of the accusation. The verdict does not go beyond the charge; and if the charge be invalid in law, the verdict must be invalid also. All these cases, therefore, and many similar ones which might be put, are clearly consistent with my principle. I do not seek to erect jurors into legislators or judges;—there must be a rule of action in every society, which it is the duty of the legislature to create, and of judicature to expound when created;—I only support their right to determine guilt or innocence where the crime charged is blended by the general issue with the intention of the criminal; more especially when the quality of the act itself, even independent of that intention, is not measurable by any precise principle or precedent of law, but is inseparably connected with the time when, the place where, and the circumstances under which, the defendant acted.

"My lord, in considering libels of this nature, as opposed to slander on individuals, to be mere questions of fact, or at all events to contain matter fit for the determination of the Jury, I am supported not only by the general practice of Courts, but even of those very practisers themselves, who, in prosecuting for the Crown, have maintained the contrary doctrine.

"Your lordships will, I am persuaded, admit that the general practice of the profession—more especially of the very heads of it, prosecuting, too, for the public—is strong evidence of the law. Attorney-generals have seldom entertained such a jealousy of the King's judges in state prosecutions, as to lead them to make presents of jurisdiction to juries, which did not belong to them of right by the constitution of the country. Neither can it be supposed that men in high office and of great experience should, in every instance, though differing from each other in temper, character, and talents, uniformly fall into the same absurdity of declaiming to juries upon topics totally irrelevant, when no such inconsistency is found to disfigure the professional conduct of the same men in other cases. Yet I may appeal to your lordship's recollection, without having recourse to the state trials, whether, upon every prosecution for a seditious libel within living memory, the Attorney-general has not uniformly stated such writings at length to the Jury, pointed out their seditious tendency which rendered them criminal, and exerted all his powers to convince them of their illegality, as the very point on which their verdict for the Crown was to be founded.

"On the trial of Mr. Horne, for publishing an advertisement in favour of the widows of those American subjects who had been *murdered* by the

* But cheating is now, by 7 and 8 Geo. IV., c. 29, s. 53, a statutable offence.

King's troops at Lexington,* did the present Chancellor,† then Attorney-general, content himself with saying that he had proved the publication, and that the criminal quality of the paper which raised the legal inference of guilt against the defendant was matter for the Court? No, my lord; he went at great length into its dangerous and pernicious tendency, and applied himself with skill and ability to the understandings and the consciences of the jurors. This instance is in itself decisive of his opinion. That great magistrate could not have acted thus upon the principle contended for to-day. He never was an idle declaimer: close and masculine argument is the characteristic of his understanding.

"The character and talents of the late Lord Chief Justice De Grey no less entitle me to infer his opinion from his uniform conduct. In all such prosecutions, while he was in office, he held the same language to juries; and particularly in the case of the King against Woodfall,‡—to use the expression of a celebrated writer on the occasion,§—'he tortured his faculties for more than an hour, to convince them that Junius's letter was a libel.'

"The opinions of another Crown lawyer, who has since passed through the first offices of the law, and filled them with the highest reputation, I am not driven to collect alone from his language as an Attorney-general; because he carried them with him to the seat of justice. Yet one case is too remarkable to be omitted.

"Lord Camden, prosecuting Doctor Shebbeare, told the Jury that he did not desire their verdict upon any other principle than their solemn conviction of the truth of the information, which charged the defendant with a wicked design to alienate the hearts of the subjects of this country from their king upon the throne.

"To complete the account: my learned friend, Mr. Bearcroft, though last, not least in favour, upon this very occasion, spoke above an hour to the Jury at Shrewsbury, to convince them of the libellous tendency of the Dialogue, which soon afterwards the learned Judge desired them wholly to dismiss from their consideration, as matter with which they had no concern. The

* Mr. Horne (afterwards Horne Tooke), in 1775, being a member of the "Society for Constitutional Information," and eager for celebrity, moved, at a meeting of that Society, "That a subscription be raised for the widows, orphans, and aged parents of their American fellow-subjects, who, preferring death to slavery, were, for this reason only, *murdered* by the King's troops at Lexington and Concord, on the 19th of April, 1775." The sum of £100 was voted, and Mr. Horne took on himself the responsibility of signing the order for transmitting it to Dr. Franklin; in consequence of which he was prosecuted, and sentenced to pay £200, to be imprisoned one year, and to find securities for three.

† Lord Thurlow.

‡ Woodfall, the printer, was prosecuted in 1770, for the publication of the celebrated Letter of Junius to the King. On the trial before Lord Mansfield, in consequence of his Lordship's direction to the Jury, excluding from them the question of the letter being a libel or not, a verdict was returned of "Guilty of *printing and publishing only.*"

§ Junius. See the Preface to "Junius's Letters."

real fact is, that the doctrine is too absurd to be acted upon—too distorted in principle to admit of consistency in practice. It is contraband in law, and can only be smuggled by those who introduce it. It requires great talents and great address to hide its deformity: in vulgar hands it becomes contemptible.

"Having supported the rights of juries, by the uniform practice of Crown lawyers, let us now examine the question of authority, and see how this Court itself, and its Judges, have acted upon trials for libels in former times; for, according to Lord Raymond, in Franklin's case,* as cited by Mr. Justice Buller, at Shrewsbury, the principle I am supporting had, it seems, been only broached about the year 1731, by some men of party spirit, and then, too, for the very first time.

"My lord, such an observation in the mouth of Lord Raymond, proves how dangerous it is to take up as doctrine every thing flung out at *Nisi Prius;* above all, upon subjects which engage the passions and interests of Government. The most solemn and important trials with which history makes us acquainted, discussed too at the bar of this court, when filled with judges the most devoted to the Crown, afford the most decisive contradiction to such an unfounded and unguarded assertion.

"In the famous case of the seven Bishops,† the question of libel or no libel was held unanimously by the Court of King's Bench trying the cause at the bar, to be matter for the consideration and determination of the Jury; and the Bishops' petition to the King, which was the subject of the information, was accordingly delivered to them, when they withdrew to consider of their verdict.

"Thinking this case decisive, I cited it at the trial, and the answer it received from Mr. Bearcroft was, that it had no relation to the point in dispute between us, for that the bishops were acquitted not upon the question of libel, but because the delivery of the petition to the King was held to be no publication.

"I was not a little surprised at this statement, but my turn of speaking was then past; fortunately, to-day it is my privilege to speak last, and I have now lying before me the fifth volume of the State Trials, where the case of the bishops is printed, and where it appears that the publication was expressly proved,—that nothing turned upon it in the judgment of the Court,—and that the charge turned wholly upon the question of libel, which was expressly left to the Jury by every one of the Judges. Lord Chief Justice Wright, in summing up the evidence, told them that a question had at first arisen about the publication, it being insisted on, that the delivery of the petition to the King had not been proved; that the Court was of the same

* See ante p. 317.

† Committed to the Tower by James II., A.D. 1688, and prosecuted for petitioning the King against their being required to promulgate his second declaration of indulgence in favour of the Roman Catholics.

opinion; and that he was just going to have directed them to find the bishops not guilty, when in came my Lord President (such sort of witnesses were, no doubt, always at hand when wanted), who proved the delivery to his Majesty. 'Therefore,' continued the Chief Justice, 'if you believe it was the same petition, it is a publication sufficient, and we must, therefore, come to inquire whether it be a libel.'

"He then gave his reasons for thinking it within the case *de libellis famosis*, and concluded, by saying to the Jury, 'In short, I must give you my opinion: I do take it to be a libel; if my brothers have any thing to say to it, I suppose they will deliver their opinion.' What opinion?—not that the Jury had no jurisdiction to judge of the matter, but an opinion for the express purpose of enabling them to give that judgment which the law required at their hands.

"Mr. Justice Holloway then followed the Chief Justice; and so pointedly was the question of libel or no libel, and not the publication, the only matter which remained in doubt, and which the Jury, with the assistance of the Court, were to decide upon, that when the learned Judge went into the facts which had been in evidence, the Chief Justice said to him, 'Look you; by the way, brother, I did not ask you to sum up the evidence, but only to deliver your opinion to the Jury, whether it be a libel or no.' The Chief Justice's remark, though it proves my position, was, however, very unnecessary; for, but a moment before, Mr. Justice Holloway had declared he did not think it was a libel, but, addressing himself to the Jury, had said, '*It is left to you, gentlemen.*'

"Mr. Justice Powell, who likewise gave his opinion that it was no libel, said to the Jury, '*But the matter of it is before you, and I leave the issue of it to God and your own consciences:*' and so little was it in the idea of any one of the Court, that the Jury ought to found their verdict solely upon the evidence of the publication, without attending to the criminality or innocence of the petition, that the Chief Justice himself consented, on their withdrawing from the bar, that they should carry with them all the materials for coming to a judgment as comprehensive as the charge; and, indeed, expressly directed that the information, the libel, the declarations under the great seal, and even the statute book, should be delivered to them.

"The happy issue of this memorable trial, in the acquittal of the bishops by the Jury, exercising jurisdiction over the whole charge, freely admitted to them as legal, even by King James's judges, is admitted by two of the gentlemen to have prepared and forwarded the glorious era of the Revolution. Mr. Bower, in particular, spoke with singular enthusiasm concerning this verdict, choosing—for reasons sufficiently obvious—to ascribe it to a special miracle wrought for the safety of the nation, rather than to the right lodged in the Jury to save it by its laws and constitution.

"My learned friend, finding his argument like nothing upon the earth, was obliged to ascend to heaven to support it. Having admitted that the Jury not only acted like just men towards the bishops, but as patriot citizens

towards their country, and not being able, without the surrender of his whole argument, to allow either their public spirit or their private justice to have been consonant to the laws, he is driven to make them the instruments of divine Providence to bring good out of evil, and holds them up as men inspired by God to perjure themselves in the administration of justice, in order, by the by, to defeat the effects of that wretched system of judicature, which he is defending to-day as the constitution of England. For if the King's judges could have decided the petition to be a libel, the Stuarts might yet have been on the throne.

"My lord, this is an argument of a priest, not of a lawyer: and even if faith and not law were to govern the question, I should be as far from subscribing to it as a religious opinion.

"No man believes more firmly than I do, that God governs the whole universe by the gracious dispensations of his providence, and that all the nations of the earth rise and fall at his command; but, then, this wonderful system is carried on by the natural, though, to us, the often hidden, relation between effects and causes, which wisdom adjusted from the beginning, and which foreknowledge at the same time rendered sufficient, without disturbing either the laws of nature or of civil society.

"The prosperity and greatness of empires ever depended, and ever must depend, upon the use their inhabitants make of their reason in devising wise laws, and the spirit and virtue with which they watch over their just execution; and it is impious to suppose, that men, who have made no provision for their own happiness or security in their attention to their government, are to be saved by the interposition of Heaven in turning the hearts of their tyrants to protect them.

"But if every case in which judges have left the question of libel to juries in opposition to law, is to be considered as a miracle, England may vie with Palestine; and Lord Chief Justice Holt steps next into view as an apostle; for that great Judge, in Tutchin's case, left the question of libel to the Jury, in the most unambiguous terms. After summing up the evidence of writing and publishing, he said to them as follows:—

"'You have now heard the evidence, and you are to consider whether Mr. Tutchin be guilty. They say they are innocent papers, and no libels; and they say nothing is a libel but what reflects upon some particular person. But this is a very strange doctrine,—to say it is not a libel reflecting on the government, endeavouring to possess the people, that the government is maladministered by corrupt persons, that are employed in such or such stations, either in the navy or army.

"'To say that corrupt officers are appointed to administer affairs, is certainly a reflection on the government. If people should not be called to account for possessing the people with an ill opinion of the government, no government can subsist. Fot it is very necessary for all governments that the people should have a good opinion of it; and nothing can be worse to any government, than to endeavour to procure animosities, as to the manage-

ment of it: this has been always looked upon as a crime, and no government can be safe without it be punished.'

"Having made these observations, did the Chief Justice tell the Jury that whether the publication in question fell within that principle, so as to be a libel on government, was a matter of law for the Court, with which they had no concern? Quite the contrary: he considered the seditious tendency of the paper as a question for their sole determination, saying to them,

"'Now you are to consider, whether these words I have read to you, do not tend to beget an ill opinion of the administration of government; to tell us, that those that are employed know nothing of the matter, and those that do know are not employed. Men are not adapted to offices, but offices to men, out of a particular regard to their interest, and not to their fitness for the places. This is the purport of these papers.'

"In citing the words of judges in judicature, I have a right to suppose their discourse to be pertinent and relevant, and that, when they state the defendant's answer to the charge, and make remarks on it, they mean that the Jury should exercise a judgment under their direction: this is the practice we must certainly impute to Lord Holt, if we do him the justice to suppose that he meant to convey the sentiments which he expressed. So that, when we come to sum up this case, I do not find myself so far behind the learned gentleman, even in point of express authority; putting all reason, and the analogies of law which unite to support me, wholly out of the question.

"There is Court of King's Bench against Court of King's Bench;—Chief Justice Wright against Chief Justice Lee;—and Lord Holt against Lord Raymond: as to living authorities, it would be invidious to class them; but it is a point on which I am satisfied myself, and on which the world will be satisfied likewise, if ever it comes to be a question.

"But even if I should be mistaken in that particular, I cannot consent implicitly to receive any doctrine as the law of England, though pronounced to be such by magistrates the most respectable, if I find it to be in direct violation of the very first principles of English judicature. The great jurisdictions of the country are unalterable except by parliament, and, until they are changed by that authority, they ought to remain sacred: the Judges have no power over them. What parliamentary abridgment has been made upon the rights of juries since the trial of the bishops, or since Tutchin's case, when they were fully recognised by this Court? None. Lord Raymond and Lord Chief Justice Lee ought, therefore, to have looked there—to their predecessors—for the law, instead of setting up a new one for their successors.

"But supposing the Court should deny the legality of all these propositions, or, admitting their legality, should resist the conclusions I have drawn from them: then I have recourse to my last proposition, in which I am supported even by all those authorities, on which the learned Judge relies for the doctrines contained in his Charge; to wit:—

"'That, in all cases where the mischievous intention, which is agreed to be the essence of the crime, cannot be collected by simple inference from the fact charged, because the defendant goes into evidence to rebut such inference, the intention then becomes a pure unmixed question of fact, for the consideration of the Jury.'

"I said the authorities of the King against Woodfall and Almon were with me. In the first, which is reported in fifth Burrow, your lordship expressed yourself thus:—'Where an act, in itself indifferent, becomes criminal when done with a particular intent, there the intent must be proved and found. But where the act is itself unlawful, as in the case of a libel, the PROOF of justification or excuse lies on the defendant; *and in failure thereof, the law implies a criminal intent.*' Most luminously expressed to convey this sentiment, viz., that when a man publishes a libel, and has nothing to say for himself,—no explanation or exculpation,—a criminal intention need not be proved. I freely admit that it need not; it is an inference of common sense, not of law. But the publication of a libel, does not exclusively show criminal intent, but is only an implication of law, in failure of the defendant's proof. Your lordship immediately afterwards, in the same case, explained this further. 'There may be cases where the publication may be justified or excused as lawful or innocent; FOR NO FACT WHICH IS NOT CRIMINAL, *though the paper* BE A LIBEL, can amount to SUCH a publication of which a defendant ought to be found guilty.' But no question of that kind arose at the trial, that is, at the trial of Woodfall. Why? Your lordship immediately explained why—'*Because the defendant called no witnesses;*' expressly saying, that the publication of a libel is not in itself a crime, unless the intent be criminal; and that it is not merely in mitigation of punishment, but that *such* a publication does not warrant a verdict of Guilty.

"In the case of the King against Almon, a magazine containing one of Junius's letters, was sold at Almon's shop: there was proof of that sale at the trial. Mr. Almon called no witnesses, and was found guilty. To found a motion for a new trial, an affidavit was offered from Mr. Almon, that he was not privy to the sale, nor knew his name was inserted as a publisher; and that this practice of booksellers being inserted as publishers by their correspondents, without notice, was common in the trade.

"Your lordship said, 'Sale of a book in a bookseller's shop, is *primâ facie* evidence of publication by the master, and the publication of a libel is *prima facie* evidence of criminal intent: it stands good, till answered by the defendant: it must stand till contradicted or explained; *and if not contradicted, explained, or exculpated, becomes tantamount to conclusive, when the defendant calls no witnesses.*'

"Mr. Justice Aston said, '*Primâ facie* evidence *not answered*, is sufficient to ground a verdict upon: if the defendant had a sufficient excuse, he might have proved it at the trial: his having neglected it where there was no surprise, is no ground for a new one.' Mr. Justice Willes and Mr. Justice Ashurst agreed upon those express principles.

"These cases declare the law, beyond all controversy, to be, that publication, even of a libel, is no conclusive proof of guilt, but only *primâ facie* evidence of it till answered; and that, if the defendant can show that his intention was not criminal, he completely rebuts the inference arising from the publication; because, though it remains true, that he published, yet, according to your lordship's express words, it is not such a publication of which a defendant ought to be found guilty. Apply Mr. Justice Buller's summing up to this law, and it does not require even a legal apprehension to distinguish the repugnancy.

"The advertisement was proved to convince the Jury of the Dean's motive for publishing; Mr. Jones's testimony went strongly to aid it;* and the evidence to character, though not sufficient in itself, was admissible to be thrown into the scale. But not only no part of this was left to the Jury, but the whole of it was expressly removed from their consideration, although, in the cases of Woodfall and Almon, it was as expressly laid down to be within their cognisance, and a complete answer to the charge, if satisfactory, to the minds of the Jurors.

"In support of the learned Judge's charge, there can be, therefore, but the two arguments, which I stated on moving for the rule. Either that the defendant's evidence, namely, the advertisement—Mr. Jones's evidence in confirmation of its being *bonâ fide*—and the evidence to character, to strengthen that construction—were not sufficient proof that the Dean believed the publication meritorious, and published it in vindication of his honest intentions: or else, that, even admitting it to establish that fact, it did not amount to such an exculpation as to be evidence on Not guilty, so as to warrant a verdict. I still give the learned Judge the choice of the alternative.

"As to the first, viz., whether it showed honest intention in point of fact, that was a question for the Jury. If the learned Judge had thought it was not sufficient evidence to warrant the Jury's believing that the Dean's motives were such as he had declared them, I conceive he should have given his opinion of it as a point of evidence, and left it there. I cannot condescend to go further; it would be ridiculous to argue a self-evident proposition.

"As to the second, viz., that even if the Jury had believed from the evidence, that the Dean's intention was wholly innocent, it would not have warranted them in acquitting, and, therefore, should not have been left to them upon Not guilty; that argument can never be supported. For if the Jury had declared, 'We find that the Dean published this pamphlet, whether a libel or not, we do not find: and we find further, that, believing it in his conscience to be meritorious and innocent, he, *bonâ fide*, published it with the prefixed advertisement, as a vindication of his character from the reproach of seditious intentions, and not to excite sedition:' it is impossible to say,

* See ante note, p. 323.

without ridicule, that on such a special verdict the Court could have pronounced a criminal judgment.

"Then why was the consideration of that evidence, by which those facts might have been found, withdrawn from the Jury, after they brought in a verdict guilty of publishing ONLY, which, in the King against Woodfall, was only said not to negative the criminal intention, because the defendant called no witnesses? Why did the learned Judge confine his inquiries to the innuendos, and finding them agreed to direct the epithet of Guilty, without asking the Jury if they believed the defendant's evidence to rebut the criminal inference? Some of them positively meant to negative the criminal inference, by adding the word *only*, and all would have done it, if they had thought themselves at liberty to enter upon that evidence. But they were told expressly that they had nothing to do with the consideration of that evidence, which, if believed, would have warranted that verdict. The conclusion is evident; if they had a right to consider it, and their consideration might have produced such a verdict, and if such a verdict would have been an acquittal, it must be a misdirection.

"'But,' says Mr. Bower,—'if this advertisement, prefixed to the publication, by which the Dean professed his innocent intention in publishing it, should have been left to the Jury as evidence of that intention, to found an acquittal on, even taking the Dialogue to be a libel, no man could ever be convicted of publishing any thing, however dangerous; for, he would only have to tack an advertisement to it by way of preface, professing the excellence of its principles, and the sincerity of its motives, and his defence would be complete.

"My lord, I never contended for any such position. If a man of education, like the Dean, were to publish a writing so palpably libellous, that no ignorance or misapprehension imputable to such a person could prevent his discovering the mischievous design of the author, no jury would believe such an advertisement to be *bonâ fide*, and would, therefore, be bound in conscience to reject it, as if it had no existence: the effect of such evidence must be to convince the Jury of the defendant's purity of mind, and must, therefore, depend upon the nature of the writing itself, and all the circumstances attending its publication.

"If, upon reading the paper, and considering the whole of the evidence, they have reason to think, that the defendant did not believe it to be illegal, and did not publish it with the seditious purpose charged by the indictment, he is not guilty upon any principle or authority of law, and would have been acquitted even in the Star-chamber: for it was held by that court, in Lambe's case, in the eighth year of King James the First, as reported by Lord Coke, who then presided in it, that every one who should be convicted of a libel, must be the writer or contriver, or a *malicious* publisher, *knowing* it to be a libel.

"This case of Lambe being of too high authority to be opposed, and too much in point to be passed over, Mr. Bower endeavours to avoid its force by

giving it a new construction of his own: he says, that not knowing a writing to be a libel, in the sense of that case, means, not knowing the contents of the thing published: as by conveying papers sealed up, or having a sermon and a libel, and delivering one by mistake for the other. In such cases, he says, *ignorantia facti excusat*, because the mind does not go with the act; *sed ignorantia legis non excusat;* and, therefore, if the party knows the contents of the paper which he publishes, his mind goes with the act of publication, though he does not find out any thing criminal, and he is bound to abide by the legal consequences.

" This is to make criminality depend upon the consciousness of an act, and not upon the knowledge of its quality, which would involve lunatics and children in all the penalties of criminal law: for whatever they do is attended with consciousness, though their understanding does not reach to the consciousness of offence.

" The publication of a libel, not believing it to be one after having read it, is a much more favourable case than publishing it unread by mistake; the one, nine times in ten, is a culpable negligence, which is no excuse at all; for a man cannot throw papers about the world without reading them, and afterwards say he did not know their contents were criminal: but, if a man reads a paper, and not believing it to contain any thing seditious, having collected nothing of that tendency himself, publishes it amongst his neighbours as an innocent and useful work, he cannot be convicted as a criminal publisher. How he is to convince the Jury that his purpose was innocent, though the thing published be a libel, must depend upon circumstances; and these circumstances he may, on the authority of all the cases, ancient and modern, lay before the Jury in evidence; because, if he can establish the innocence of his mind, he negatives the very gist of the indictment.

" 'In all crimes,' says Lord Hale, in his Pleas of the Crown, 'the intention is the principal consideration: it is the mind, that makes the taking of another's goods to be felony, or a bare trespass only: it is impossible to prescribe all the circumstances evidencing a felonious intent, or the contrary; but the same must be left to the attentive consideration of Judge *and Jury;* wherein the best rule is, *in dubiis*, rather to incline to acquittal than conviction.'

" In the same work, he says 'By the statute of Philip and Mary, touching importation of coin counterfeit of foreign money, it must, to make it treason, be with the intent to utter and make payment of the same; and the intent in this case, may be tried and found by circumstances of FACT, by words, letters, and a thousand evidences besides the bare doing of the fact.'

" This principle is illustrated by frequent practice, where the intention is found by the Jury as a fact in a special verdict. It occurred, not above a year ago, at East Grinstead, on an indictment for burglary, before Mr. Justice Ashurst, where I was myself counsel for the prisoner. It was clear upon the evidence, that he had broken into the house by force, in the night, but I contended that it appeared from proof, that he had broken and entered with an

intent to rescue his goods, which had been seized that day by the officers of excise; which rescue, though a capital felony by modern statute, was but a trespass, *temp. Henry VIII.*, and consequently not a burglary.

"Mr. Justice Ashurst saved this point of law, which the twelve Judges afterwards determined for the prisoner; but, in order to create the point of law, it was necessary that the prisoner's intention should be ascertained as a fact; and, for this purpose, the learned Judge directed the Jury to tell him with what intention they found that the prisoner broke and entered the house, which they did by answering, 'To rescue his goods;' which verdict was recorded.

"In the same manner, in the case of the King against Pierce, at the Old Bailey, the intention was found by the Jury as a fact in the special verdict. The prisoner, having hired a horse and afterwards sold him, was indicted for felony; but the Judges doubting whether it was more than a fraud, unless he originally hired him intending to sell him, recommended it to the Jury to find a special verdict, comprehending their judgment of his intention from the evidence. Here the quality of the act depended on the intention, which intention it was held to be the exclusive province of the Jury to determine, before the Judges could give the act any legal denomination.

"My lord, I am ashamed to have cited so many authorities to establish the first elements of the law; but it has been my fate to find them disputed. The whole mistake arises from confounding criminal with civil cases. If a printer's servant, without his master's consent or privity, inserts a slanderous article against me in his newspaper, I ought not in justice to indict him; and if I do, the Jury *on such proof* should acquit him; but it is no defence to an action, for he is responsible to me *civiliter* for the damage which I have sustained from the newspaper, which is his property. Is there anything new in this principle? So far from it, that every student knows it is as applicable to all other cases; but people are resolved, from some fatality or other, to distort every principle of law into nonsense, when they come to apply it to printing; as if none of the rules and maxims which regulate all the transactions of society had any reference to it.

"If a man, rising in his sleep, walks into a china shop, and breaks everything about him, his being asleep is a complete answer to an *indictment* for a trespass; but he must answer in an *action* for everything he has broken.

"If the proprietor of the York coach, though asleep in his bed at that city, has a drunken servant on the box at London, who drives over my leg and breaks it, he is responsible to me in damages for the accident; but I cannot indict him as the criminal author of my misfortune. What distinction can be more obvious and simple?

"Let us only, then, extend these principles, which were never disputed in other criminal cases, to the crime of publishing a libel; and let us at the same time allow to the Jury, as our forefathers did before us, the same jurisdiction in that instance which we agree in rejoicing to allow them in all others, and the system of English law will be wise, harmonious, and complete.

"My lord, I have now finished my argument, having answered the several objections to my five original propositions, and established them by all the principles and authorities which appear to me to apply, or to be necessary for their support. In this process, I have been unavoidably led into a length not more inconvenient to the Court than to myself, and have been obliged to question several judgments which had been before questioned and confirmed.

"They, however, who may be disposed to censure me for the zeal which has animated me in this cause, will at least, I hope, have the candour to give me credit for the sincerity of my intentions. It is surely not my interest to stir opposition to the decided authorities of the Court in which I practise. With a seat here within the bar, at my time of life, and looking no further than myself, I should have been contented with the law as I found it, and have considered *how little* might be said with decency, rather than *how much*; but feeling as I have ever done upon the subject, it was impossible I should act otherwise. It was the first command and counsel to my youth, always to do what my conscience told me to be my duty, and to leave the consequences to God. I shall carry with me the memory, and, I hope, the practice, of this parental lesson to the grave. I have hitherto followed it, and have no reason to complain that the adherence to it has been even a temporal sacrifice: I have found it, on the contrary, the road to prosperity and wealth, and shall point it out as such to my children. It is impossible in this country to hurt an honest man; but even if it were possible, I should little deserve that title, if I could, upon any principle, have consented to tamper or temporise with a question which involves in its determination and its consequences, the liberty of the press, and, in that liberty, the very existence of every part of the public freedom."

Notwithstanding this convincing argument, the Court delivered an unanimous judgment, confirming the doctrine delivered by Mr. Justice Buller, on the trial at Shrewsbury, and discharged the rule for a new trial; but Mr. Erskine subsequently moved successfully in arrest of judgment.

Owing to the exertions of Mr. Erskine and Mr. Fox, in defence of the rights of juries, the Act of 32 Geo. 3, c. 60, was subsequently passed; which, after reciting that "doubts had arisen whether, on the trial of an indictment or information for the making or publishing any libel where an issue or issues are joined between the King and the defendant on the plea of not guilty pleaded, it be competent to the Jury impanelled to try the same to give their verdict *upon the whole matter in issue*,"—enacts, that "on every such trial the Jury sworn to try the issue may give a general verdict of guilty or not guilty *upon the whole matter put in issue* upon such indictment or information, and shall not be required or directed by the Court or Judge before whom the indictment or information shall be tried to find the defendant or defendants guilty merely on the proof of the publication by such defendant or defendants of the paper charged to be a libel, and of the sense ascribed to the same in such indictment or information."

Speech in defence of John Stockdale, 9th December, 1789.

On the occasion of the impeachment of Warren Hastings, the Governor-general of Bengal, for high crimes and misdemeanours, the articles of impeachment were prepared by Mr. Edmund Burke, and, instead of being couched in the usual dry formal language of law, were remarkable for the same fervour of language which characterised all the compositions of their author. Contrary to the principles of impartial justice, these articles were permitted to be published throughout the kingdom, while the impeachment itself was still pending, and undoubtedly created a strong prejudice against the accused; to counteract which, the Rev. Mr. Logan, a minister of Leith, composed a defence of Mr. Hastings, entitled "A Review of the Principal Charges against Warren Hastings, Esq., late Governor-general of Bengal," which was published, at his request, by Mr. Stockdale, a bookseller in Piccadilly, in the regular course of his business. This pamphlet, being very extensively circulated, and containing strong and, as it was asserted, libellous observations on the House of Commons—imputing their proceedings to motives of personal animosity, and not a regard to public justice—Mr. Fox, who was one of the managers of the impeachment, complained of it to the House; and, on his motion, a vote passed unanimously that an address be presented to the King, praying his Majesty to direct his Attorney-general to file an information against Mr. Stockdale, as the publisher of a libel upon the Commons' House of Parliament. An information was accordingly filed, and came on for trial in the Court of King's Bench, before Lord Kenyon and a special jury, on the 9th of December, 1789; when, the Attorney-general (Sir A. Macdonald) having fairly opened the case, and proved the publication, Mr. Erskine, as counsel for the defendant, addressed the Jury as follows:—

"Gentlemen of the Jury,

"Mr. Stockdale, who is brought as a criminal before you for the publication of this book, has, by employing me as his advocate, reposed what must appear to many an extraordinary degree of confidence; since, although he well knows that I am personally connected in friendship with most of those, whose conduct and opinions are principally arraigned by its author,* he nevertheless commits to my hands his defence and justification.

"From a trust apparently so delicate and singular, vanity is but too apt to whisper an application to some fancied merit of one's own; but it is proper, for the honour of the English bar, that the world should know that such things happen to all of us daily, and of course; and that the defendant, without any knowledge of me, or any confidence that was personal, was only not afraid to follow up an accidental retainer, from the knowledge he has of the general character of the profession. Happy indeed is it for this

* Mr. Erskine was a particular admirer of Mr. Burke, to whose productions he was in the constant habit of referring in terms of the highest admiration.

country, that whatever interested divisions may characterise *other places*, of which I may have occasion to speak to-day, however the counsels of the highest departments of the state may be occasionally distracted by personal considerations, they never enter these walls to disturb the administration of justice : whatever may be our public principles, or the private habits of *our* lives, they never cast even a shade across the path of our professional duties. If this be the characteristic even of the bar of an English court of justice, what sacred impartiality may not every man expect from its jurors and its bench ?

" As, from the indulgence which the Court was yesterday pleased to give to my indisposition, this information was not proceeded on when you were attending to try it, it is probable you were not altogether inattentive to what passed at the trial of the other indictment, prosecuted also by the House of Commons: and therefore, without a restatement of the same principles, and a similar quotation of authorities to support them, I need only remind you of the law applicable to this subject, as it was then admitted by the Attorney-general, in concession to my propositions, and confirmed by the higher authority of the Court, namely :—

" First, that every information or indictment must contain such a description of the crime, that the defendant may know what crime it is which he is called upon to answer.

" Secondly, that the Jury may appear to be warranted in their conclusion of guilty or not guilty.

" And, lastly, that the Court may see such a precise and definite transgression upon the record, as to be able to apply the punishment which judicial discretion my dictate, or which positive law may inflict.

" It was admitted also to follow as a mere corollary from these propositions, that where an information charges a writing to be composed or published OF AND CONCERNING THE COMMONS OF GREAT BRITAIN, with an intent to bring that body into scandal and disgrace with the public, the author cannot be brought within the scope of such a charge, unless the Jury, on examination and comparison of the *whole matter* written or published, shall be satisfied that the particular passages charged as criminal, when explained by the context, and considered as part of one entire work, were meant and intended by the author to vilify the House of Commons as a body, and were written of and concerning them IN PARLIAMENT ASSEMBLED.

" These principles being settled, we are now to see what the present information is.

" It charges that the defendant,—' unlawfully, wickedly, and maliciously devising, contriving, and intending to asperse, scandalise, and vilify the Commons of Great Britain in Parliament assembled; and most wickedly and audaciously to represent their proceedings as corrupt and unjust, and to make it believed and thought, as if the Commons of Great Britain in Parliament assembled, were a most wicked, tyrannical, base, and corrupt set of persons, and to bring them into disgrace with the public,—the defendant

published—*What?* *Not* those latter ends of sentences which the Attorney-general has read from his brief, as if they had followed one another in order in this book;—*not* those scraps and tails of passages which are patched together upon this record, and pronounced in one breath, as if they existed without intermediate matter in the same page, and without context anywhere. *No:* this is not the accusation, even mutilated as it is; for the information charges, *that, with intention to vilify the House of Commons*, the defendant published the whole book, describing it on the record by its title: 'A Review of the Principal Charges against Warren Hastings, Esq., late Governor-general of Bengal:' *in which, amongst other things, the matter particularly selected is to be found.** Your inquiry, therefore, is not confined to, whether the defendant published *those selected parts of it;* and whether, looking at them as they are distorted by the information, they carry in fair construction the sense and meaning which the innuendoes put upon them; but whether the author of the *entire work*,—I say the author, since, if he could defend himself, the publisher unquestionably can,—whether the author wrote the volume which I hold in my hand, as a free, manly, *bonâ fide* disquisition of criminal charges against his fellow-citizen; or whether the long, eloquent discussion of them, which fills so many pages, was a mere cloak and cover for the introduction of the supposed scandal imputed to the selected passages; the mind of the writer all along being intent on traducing the House of Commons, and not on fairly answering their charges against Mr. Hastings?

"This, gentlemen, is the principal matter for your consideration; and therefore, if, after you shall have taken the book itself into the chamber which will be provided for you, and shall have read the whole of it with impartial attention,—if, after the performance of this duty, you can return here, and with clear consciences pronounce upon your oaths that the impression made upon you by these pages is, that the author wrote them with the wicked, seditious, and corrupt intentions charged by the information;—you have then my full permission to find the defendant guilty; but if, on the other hand, the general tenor of the composition shall impress you with respect for the author, and point him out to you as a man mistaken perhaps himself, but not seeking to deceive others,—if every line of the work shall present to you an intelligent animated mind, glowing with a Christian compassion towards a fellow-man, whom he believed to be innocent, and with a patriot zeal for the liberty of his country, which he considered as wounded through the sides of an oppressed fellow-citizen,—if *this* shall be the impression on your consciences and understandings, when you are called upon to deliver your verdict;—then hear from me, that you not only work private injustice, but break up the press of England, and surrender her rights and liberties for ever, if you convict the defendant.

† The principal parts selected by the Attorney-general are specified and commented on by Mr. Erskine, in a subsequent part of this speech.

"Gentlemen, to enable you to form a true judgment of the meaning of this book, and of the intention of its author, and to expose the miserable juggle that is played off in the information, by the combination of sentences which, in the work itself, have no bearing upon one another—I will first give you the publication as it is charged upon the record and presented by the Attorney-general in opening the case for the Crown; and I will then, by reading the interjacent matter, which is studiously kept out of view, convince you of its true interpretation.

"The information, beginning with the first page of the book, charges as a libel upon the House of Commons the following sentence: 'The House of Commons has now given its final decision with regard to the merits and demerits of Mr. Hastings. The Grand Inquest of England have delivered their charges, and preferred their impeachment; their allegations are referred to proof; and from the appeal to the collective wisdom and justice of the nation in the supreme tribunal of the kingdom, the question comes to be determined whether Mr. Hastings be guilty or not guilty?'

"It is but fair, however, to admit, that this first sentence, which the most ingenious malice cannot torture into a criminal construction, is charged by the information rather as introductory to what is made to follow it, than as libellous in itself; for the Attorney-general, from this introductory passage in the first page, goes on at a leap to page *thirteenth*, and reads—almost without a stop, as if it immediately followed the other—this sentence: 'What credit can we give to multiplied and accumulated charges, when we find that they originate from misrepresentation and falsehood?'

"From these two passages thus standing together, *without the intervenient matter which occupies thirteen pages*, one would imagine, that,—instead of investigating the probability or improbability of the guilt imputed to Mr. Hastings—instead of carefully examining the charges of the Commons, and the defence of them which had been delivered before them, or which was preparing for the Lords,—the author had immediately, and in a moment after stating the mere fact of the impeachment, decided that the act of the Commons originated from misrepresentation and falsehood.

"Gentlemen, in the same manner a veil is cast over all that is written *in the next seven pages:* for, knowing that the context would help to the true construction, not only of the passages charged before, but of those in the sequel of this information, the Attorney-general, aware that it would convince every man who read it that there was no intention in the author to calumniate the House of Commons, passes over, by another leap, to *page twenty;* and in the same manner, without drawing his breath, and as if it directly followed the two former sentences *in the first and thirteenth pages*, reads from page twentieth—'An impeachment of error in judgment with regard to the quantum of a fine, and for an intention that never was executed, and never known to the offending party, characterises a tribunal of inquisition rather than a Court of Parliament.'

"From this passage, by another vault, he leaps over *one-and-thirty pages*

more, to page fifty-one; where he reads the following sentence, which he mainly relies on, and upon which I shall by and by trouble you with some observations: 'Thirteen of them passed in the House of Commons, not only without investigation, but without being read; and the votes were given without inquiry, argument, or conviction. A majority had determined to impeach; opposite parties met each other, and 'jostled in the dark,' to perplex the political drama, and bring the hero to a tragic catastrophe.'

"From thence, deriving new vigour from every exertion, he makes his last grand stride *over forty-four pages more*, almost to the end of the book, charging a sentence *in the ninety-fifth page.*

"So that out of a volume of *one hundred and ten pages*, the defendant is only charged with a few scattered fragments of sentences, picked out of *three or four.* Out of a work consisting of about *two thousand five hundred and thirty lines*, of manly, spirited eloquence, only *forty or fifty lines* are culled from different parts of it, and artfully put together, so as to rear up a libel, out of a false context, by a supposed connexion of sentences with one another, which are not only entirely independent, but which, when compared with their antecedents, bear a totally different construction.—In this manner, the greatest works upon government, the most excellent books of science, the sacred Scriptures themselves, might be distorted into libels; by forsaking the general context, and hanging a meaning upon selected parts:—thus, as in the text put by Algernon Sidney, 'The fool has said in his heart, There is no God,' the Attorney-general, on the principle of the present proceeding against this pamphlet, might indict the publisher of the Bible for blasphemously denying the existence of heaven, in printing '*There is no God,*' for these words alone, without the context, would be selected by the information, and the Bible, like this book, would be *underscored* to meet it. Nor could the defendant, in such a case, have any possible defence, unless the Jury were permitted to see, BY THE BOOK ITSELF, that the verse, instead of denying the existence of the Divinity, only imputed that imagination to a fool.*

"Gentlemen, having now gone through the Attorney-general's reading, the book shall presently come forward and speak for itself. But before I can venture to lay it before you, it is proper to call your attention to how matters stood at the time of its publication: without which the author's meaning and intention cannot possibly be understood.

"The Commons of Great Britain, in Parliament assembled, had accused Mr. Hastings, as Governor-general of Bengal, of high crimes and misdemeanors; and their jurisdiction, for that high purpose of national justice, was unquestionably competent. But it is proper you should know the nature of this inquisitorial capacity. The Commons, in voting an impeachment, may be compared to a grand jury, finding a bill of indictment for the Crown: neither the one nor the other can be supposed to proceed,

* See note ante p. 329.

but upon the matter which is brought before them; neither of them can find guilt without accusation, nor the truth of accusation without evidence. When, therefore, we speak of the *accuser*, or *accusers*, of a person indicted for any crime, although the Grand Jury are the accusers *in form*, by giving effect to the accusation; yet, in common parlance, we do not consider *them* as the responsible authors of the prosecution. If I were to write of a most wicked indictment, found against an innocent man, which was preparing for trial, nobody who read it would conceive I meant to stigmatise the Grand Jury that found the bill; but it would be inquired immediately, who was the prosecutor, and who were the witnesses on the back of it? In the same manner I mean to contend, that if this book is read with only common attention, the whole scope of it will be discovered to be this: That, in the opinion of the author, Mr. Hastings had been accused of mal-administration in India, from the heat and spleen of political divisions in Parliament, and not from any zeal for national honour or justice; that the impeachment did not originate from Government, but from a faction banded against it, which, by misrepresentation and violence, had fastened it on an unwilling House of Commons; that, prepossessed with this sentiment (which, however unfounded, makes no part of the present business, since the publisher is not called before you for defaming individual members of the Commons, but for a contempt of the Commons as a body), the author pursues the charges, article by article;—enters into a warm and animated vindication of Mr. Hastings, by regular answers to each of them; and that, as far as the mind and soul of a man can be visible, I might almost say, embodied in his writings, his intention throughout the whole volume appears to have been to charge with injustice the *private accusers* of Mr. Hastings, and not the House of Commons as a body: which undoubtedly rather reluctantly gave way to, than heartily adopted, the impeachment. This will be found to be the palpable scope of the book; and no man who can read English, and who, at the same time, will have the candour and common sense to take up his impressions from what is written in it, instead of bringing his own along with him to the reading of it, can possibly understand it otherwise.

"But it may be said, that admitting this to be the scope and design of the author, what right had he to canvass the merits of an accusation upon the records of the Commons; more especially while it was in the course of legal procedure? This, I confess, might have been a serious question; but the Commons, *as prosecutors of this information*, seem to have waived or forfeited their right to ask it. Before they sent the Attorney-general into this place, to punish the publication of *answers* to their charges, they should have recollected that their own want of circumspection in the maintenance of their privileges, and in the protection of persons accused before them, had given to the public *the charges themselves*, which should have been confined to *their own journals*. The course and practice of Parliament might warrant the printing of them for the use of their own members; but there the publication should have stopped, and all further progress been resisted by authority.

If they were resolved to consider *answers to their charges* as a contempt of their privileges, and to punish the publication of them by such severe prosecutions, it would have well become them to have begun first with those printers who, by publishing *the charges themselves* throughout the whole kingdom, or rather throughout the whole civilised world, were anticipating the passions and judgments of the public against a subject of England upon his trial, so as to make the publication of *answers* to them not merely a privilege, but a debt and duty to humanity and justice. The Commons of Great Britain claimed and exercised the privileges of questioning the innocence of Mr. Hastings by their impeachment; but as, however questioned, it was still to be presumed and protected, until guilt was established by a judgment, he whom they had accused had an equal claim upon their justice, to guard him from prejudice and misrepresentation until the hour of trial.

"Had the Commons, therefore, by the exercise of their high, necessary, and legal privileges, kept the public aloof from all canvass of their proceedings, by an early punishment of printers, who, without reserve or secresy, had sent out *the charges* into the world from a thousand presses in every form of publication, they would have then stood upon ground to-day, from whence no argument of policy or justice could have removed them; because nothing can be more incompatible with either, than appeals to the many upon subjects of judicature, which, by common consent, a few are appointed to determine, and which must be determined by facts and principles, which the multitude have neither leisure nor knowledge to investigate. But then, let it be remembered, that it is for those who have the authority to accuse and punish, to set the example of, and to enforce this reserve, which is so necessary for the ends of justice. Courts of law, therefore, in England never endure the publication of their records: and a prosecutor of an indictment would be attached for such a publication; and, upon the same principle, a defendant would be punished for anticipating the justice of his country, by the publication of his defence, the public being no party to it, until the tribunal appointed for its determination be open for its decision.

"Gentlemen, you have a right to take judicial notice of these matters, without the proof of them by witnesses; for jurors may not only, without evidence, found their verdicts on facts that are notorious, but upon what they know privately themselves, after revealing it upon oath to one another; and therefore you are always to remember, that this book was written when the *charges* against Mr. Hastings, *to which it is an answer*, were, *to the knowledge of the Commons* (for we cannot presume our watchmen to have been asleep), publicly hawked about in every pamphlet, magazine, and newspaper in the kingdom. You well know with what a curious appetite these charges were devoured by the whole public, interesting as they were, not only from their importance, but from the merit of their composition; certainly not so intended by the honourable and excellent composer to oppress the accused, but because the commonest subjects swell into eloquence under the touch of his sublime genius. Thus, by the remissness of the Commons, *who are now*

the prosecutors of this information, a subject of England, who was not even charged with contumacious resistance to authority, much less a proclaimed outlaw, and therefore fully entitled to every protection which the customs and statutes of the kingdom hold out for the protection of British liberty, saw himself pierced with the arrows of thousands and ten thousands of libels.

" Gentlemen, before I venture to lay the book before you, it must be yet further remembered (for the fact is equally notorious), that under these inauspicious circumstances, the trial of Mr. Hastings at the bar of the Lords had actually commenced long before its publication.

" There the most august and striking spectacle was daily exhibited, which the world ever witnessed. A vast stage of justice was erected, awful from its high authority, splendid from its illustrious dignity, venerable from the learning and wisdom of its judges, captivating and affecting from the mighty concourse of all ranks and conditions which daily flocked into it, as into a theatre of pleasure; there, when the whole public mind was at once awed and softened to the impression of every human affection, there appeared, day after day, one after another, men of the most powerful and exalted talents, eclipsing by their accusing eloquence the most boasted harangues of antiquity; rousing the pride of national resentment by the boldest invectives against broken faith and violated treaties, and shaking the bosom with alternate pity and horror by the most glowing pictures of insulted nature and humanity; ever animated and energetic, from the love of fame, which is the inherent passion of genius; firm and indefatigable, from a strong prepossession of the justice of their cause.*

" Gentlemen; when the author sat down to write the book now before you, all this terrible, unceasing, exhaustless artillery of warm zeal, matchless vigour of understanding, consuming and devouring eloquence, united with the highest dignity, was daily, and without prospect of conclusion, pouring forth upon one private unprotected man, who was bound to hear it, in the face of the whole people of England, with reverential submission and silence. I do not complain of this as I did of the publication of the charges, because it is what the law allowed and sanctioned in the course of a public trial: but when it is remembered that we are not angels, but weak fallible men, and that even the noble Judges of that high tribunal are clothed beneath their ermines with the common infirmities of man's nature, it will bring us all to a proper temper for considering the book itself, which will in a few moments be laid before you. But first, let me once more remind you, that it was under all these circumstances, and amidst the blaze of passion and prejudice, which the scene I have been endeavouring faintly to describe to you might be supposed likely to produce, that the author, whose name I will now give to you, sat down to compose the book which is prosecuted to-day as a libel.

* See Mr. Sheridan's speech on this occasion in support of the second charge in the impeachment, ante p. 137.

"The history of it is very short and natural.

"The Rev. Mr. Logan, minister of the gospel at Leith, in Scotland, a clergyman of the purest morals, and, as you will see by and by, of very superior talents, well acquainted with the human character, and knowing the difficulty of bringing back public opinion after it is settled on any subject, took a warm, unbought, unsolicited interest in the situation of Mr. Hastings, and determined, if possible, to arrest and suspend the public judgment concerning him. He felt for the situation of a fellow-citizen, exposed to a trial which, whether right or wrong, is undoubtedly a severe one,—a trial, certainly not confined to a few criminal acts like those we are accustomed to, but comprehending the transactions of a whole life, and the complicated policies of numerous and distant nations,—a trial, which had neither visible limits to its duration,* bounds to its expense, nor circumscribed compass for the grasp of memory or understanding,—a trial, which had therefore broke loose from the common form of decision, and had become the universal topic of discussion in the world, superseding not only every other grave pursuit, but every fashionable dissipation.

"Gentlemen, the question you have, therefore, to try upon all this matter is extremely simple. It is neither more nor less than this: At a time when the charges against Mr. Hastings were, by the implied consent of the Commons, in every hand, and on every table—when, by their Managers, the lightning of eloquence was incessantly consuming him, and flashing in the eyes of the public—when every man was with perfect impunity saying, and writing, and publishing, just what he pleased of the supposed plunderer and devastator of nations,—would it have been criminal *in Mr. Hastings himself* to have reminded the public that he was a native of this free land, entitled to the common protection of her justice, and that he had a defence, in his turn, to offer to them, the outlines of which he implored them in the mean time to receive, as an antidote to the unlimited and unpunished poison in circulation against him? THIS IS, without colour or exaggeration, the true question you are to decide. But I assert, without the hazard of contradiction, that if Mr. Hastings himself could have stood justified or excused in your eyes for publishing this volume in his own defence, the author, if he wrote it *bonâ fide* to defend him, must stand equally excused and justified; and if the author be justified, the publisher cannot be criminal, unless you had evidence that it was published by him, with a different spirit and intention from those in which it was written. The question, therefore, is correctly what I just now stated it to be: Could *Mr. Hastings* have been condemned to infamy for writing this book?

"Gentlemen, I tremble with indignation, to be driven to put such a question in England. Shall it be endured, that a subject of this country

* The trial began 13th February, 1788, and was protracted until 17th April, 1795 (occupying one hundred and forty-eight days), when Mr. Hastings was acquitted by a large majority on every separate article charged against him. The costs of the defence amounted to £76,080.

(instead of being arraigned and tried for some single act in her ordinary courts, where the accusation, as soon, at least, as it is made public, is followed within a few hours by the decision) may be impeached by the Commons for the transactions of twenty years,—that the accusation shall spread as wide as the region of letters,—that the accused shall stand, day after day, and year after year, as a spectacle before the public, which shall be kept in a perpetual state of inflammation against him; yet that he shall not, without the severest penalties, be permitted to submit anything to the judgment of mankind in his defence? If this be law (which it is for you to-day to decide), such a man has NO TRIAL: that great hall, built by our fathers for English justice, is no longer a court, but an altar;—and an Englishman, instead of being judged in it by GOD AND HIS COUNTRY, IS A VICTIM AND A SACRIFICE.

"You will carefully remember, that I am not presuming to question either the right or duty of the Commons of Great Britain to impeach; neither am I arraigning the propriety of their selecting, as they have done, the most extraordinary persons for ability which the age has produced, to manage their impeachment.* Much less am I censuring the Managers themselves, charged with the conduct of it before the Lords, who were undoubtedly bound, by their duty to the House, and to the public, to expatiate upon the crimes of the persons whom they had accused. None of these points are questioned by me, nor are in this place questionable. I only desire to have it decided, whether,—if the Commons, when national expediency happens to call in their judgment for an impeachment, shall, instead of keeping it on their own records, and carrying it with due solemnity to the Peers for trial, permit it without censure and punishment to be sold like a common newspaper in the shop of my client, so crowded with their own members, that no plain man, without privilege of Parliament, can hope even for a sight of the fire in the winter's day,—every man buying it, reading it, and commenting upon it,—the gentleman himself who is the object of it, or his friend in his absence, may not, without stepping beyond the bounds of English freedom, put a copy of what is thus published into his pocket, and send back to the very same shop for publication a *bonâ fide*, rational, able answer to it, in order that the bane and antidote may circulate together, and the public be kept straight till the day of decision. If you think, Gentlemen, that this common duty of self-preservation, to the accused himself, which nature writes as a law upon the hearts of even savages and brutes, is nevertheless too high a privilege to be enjoyed by an impeached and suffering Englishman; or if you think it beyond the offices of humanity and justice, when brought home to the hand of a brother or a friend, you will say so by your verdict of Guilty; the decision will then be *yours;* and the consolation *mine*, that I laboured to avert it. A very small part of the misery which will follow

* Amongst others who assisted Mr. Burke in the management of the impeachment, were Fox, Sheridan, and Grey.

from it, is likely to light upon *me;* the rest will be divided amongst *yourselves and your children.*

"Gentlemen, I observe plainly and with infinite satisfaction, that you are shocked and offended at my even supposing it possible you should pronounce such a detestable judgment; and that you only require of me to make out to your satisfaction, as I promised, that the real scope and object of this book is a *bonâ fide* defence of Mr. Hastings, and not a cloak and cover for scandal on the House of Commons. I engage to do this, and I engage for nothing more. I shall make an open, manly defence; I mean to torture no expressions from their natural constructions, to dispute no innuendos on the record, should any of them have a fair application; nor to conceal from your notice any unguarded intemperate expressions, which may, perhaps, be found to chequer the vigorous and animated career of the work. Such a conduct might, by accident, shelter the defendant; but it would be the surrender of the very principle on which alone the liberty of the English press can stand; and I shall never defend any man from a temporary imprisonment, by the permanent loss of my own liberty, and the ruin of my country. I mean, therefore, to submit to you, that though you should find a few lines in page thirteen, or twenty-one; a few more in page fifty-one, and some others in other places; containing expressions bearing on the House of Commons, even as a body, which, if written as independent paragraphs by themselves, would be indefensible libels, yet, that you have a right to pass them over in judgment, provided the substance clearly appears to be a *bonâ fide* conclusion, arising from the honest investigation of a subject which it was lawful to investigate, and the questionable expressions, the visible effusion of a zealous temper, engaged in an honourable and legal pursuit. After this preparation, I am not afraid to lay the book in its genuine state before you.

"The pamphlet begins thus:—'The House of Commons has now given its final decision with regard to the merits and demerits of Mr. Hastings. The Grand Inquest of England have delivered their charges, and preferred their impeachment: their allegations are referred to proof; and, from the appeal to the collective wisdom and justice of the nation in the supreme tribunal of the kingdom, the question comes to be determined, whether Mr. Hastings be guilty or not guilty?

"Now if, immediately after what I have just read to you,—which is the the first part charged by the information,—the author had said, 'Will accusations, built on such a baseless fabric, prepossess the public in favour of the impeachment? What credit can we give to multiplied and accumulated charges, when we find that they originate from misrepresentation and falsehood?' every man would have been justified in pronouncing that he was attacking the House of Commons; because the groundless accusations mentioned in the second sentence, could have no reference but to the House itself mentioned by name in the first and only sentence which preceded it.

"But, Gentlemen, to your astonishment I will now read *what intervenes between these two passages;* from which you will see, beyond a possibility of

doubt, that the author never meant to calumniate the House of Commons, but to say that the accusations of Mr. Hastings before the *whole* House grew out of a *Committee of Secresy* established some years before, and was afterwards brought forward by the spleen of private enemies, and a faction in the Government. This will appear not only from the grammatical construction of the words, but from what is better than words,—from the meaning which a person writing as a friend of Mr. Hastings must be supposed to have intended to convey. Why should such a friend attack the House of Commons? Will any man gravely tell me that the House of Commons, *as a body*, ever wished to impeach Mr. Hastings? Do we not all know that they constantly hung back from it, and hardly knew where they were, or what to do, when they found themselves entangled with it? My learned friend the Attorney-general is a member of this assembly: perhaps he may tell you by and by what HE thought of it, and whether he ever marked any disposition in the majority of the Commons hostile to Mr. Hastings. But why should I distress my friend by the question? the fact is sufficiently notorious; and what I am going to read from the book itself—which is left out in the information—is too plain for controversy.

"'Whatever may be the event of the impeachment, the proper exercise of such power is a valuable privilege of the British constitution, a formidable guardian of the public liberty, and the dignity of the nation. *The only danger is, that, from the influence of faction, and the awe which is annexed to great names, they may be prompted to determine before they inquire, and to pronounce judgment without examination.*'

"Here is the clue to the whole pamphlet. The author trusts to, and respects, the House of Commons, but is afraid their mature and just examination may be disturbed by *faction*. Now, does he mean Government, by *faction?* Does he mean the majority of the Commons, by *faction?* Will the House, which is the prosecutor here, sanction that application of the phrase; or will the Attorney-general admit the majority to be the true innuendo of *faction?* I wish he would; I should then have gained something at least by this extraordinary debate; but I have no expectation of the sort; such a concession would be too great a sacrifice to any prosecution, at a time when everything is considered as *faction* that disturbs the repose of the Minister in Parliament, But, indeed, gentlemen, some things are too plain for argument. The author certainly means *my* friends, who, whatever qualifications may belong to them, must be contented with the appellation of *faction*, while they oppose the Minister in the House of Commons; but the House having given this meaning to the phrase of *faction* for its own purposes, cannot in decency change the interpretation, in order to convict my client. I take that to be beyond the privilege of Parliament.

"The same bearing upon individual members of the Commons, *and not on the Commons as a body*, is obvious throughout. Thus, after saying, in page 9, that the East India Company had thanked Mr. Hastings for his meritorious services—which is unquestionably true,—he adds, 'that mankind

would abide by their deliberate decision, rather than by the intemperate assertion of a *committee.*'

" This he writes after the impeachment was found by the Commons at large; but he takes no account of their proceedings; imputing the whole to the original committee, that is, *the Committee of Secresy ;** so called, I suppose, from their being the authors of twenty volumes in folio, which will remain a secret to all posterity, as nobody will ever read them. The same construction is equally plain from what immediately follows:—' The report of the *Committee of Secresy* also states, that the happiness of the native inhabitants of India has been deeply affected, their confidence in English faith and lenity shaken and impaired, and the character of this nation wantonly and wickedly degraded.'

" Here again you are grossly misled by the omission of nearly twenty-one pages. For the author, though he is here speaking of this committee *by name*, which brought forward the charges to the notice of the House, and which he continues to do onward to the next selected paragraph ; yet, by arbitrarily sinking the whole context, he is taken to be speaking to the House as a *body*, when, in the passage next charged by the information, he reproaches the *accusers* of Mr. Hastings: although, so far is he from considering them as the House of Commons, that in the very same page he speaks of the articles as the charges, not even of the Committee, but of Mr. Burke alone, the most active and intelligent member of that body, having been circulated in India by a relation of that gentleman :—' The Charges of Mr. Burke have been carried to Calcutta, and carefully circulated in India.'

" Now, if we were considering these passages of the work as calumniating a body of gentlemen, many of whom I must be supposed highly to respect, or as reflecting upon my worthy friend whose name I have mentioned, it would give rise to a totally different inquiry, which it is neither my duty nor yours to agitate; but surely, the more that consideration obtrudes itself upon us, the more clearly it demonstrates that the author's whole direction was against the individual accusers of Mr. Hastings, and not against the House of Commons, which merely trusted to the matter they had collected.

" Although, from a caution which my situation dictates, as representing another, I have thought it my duty thus to point out to you the real intention of the author, as it appears by the fair construction of the work, yet I protest, that in my own apprehension it is very immaterial whether he speaks of the Committee or of the House, provided you shall think the whole volume a *bonâ fide* defence of Mr. Hastings. This is the great point I am, by all my observations, endeavouring to establish, and which, I think, no man who reads the following short passages can doubt. Very intelligent persons have,

* The Secret Committee and the Select Committee for inquiring into the general management of the state of affairs in India, were first appointed in 1781. In 1782, the Committees having made their reports, which were exceedingly voluminous, Mr. Dundas, the Chairman of the Secret Committee, moved no less than 111 resolutions, and concluded with a censure on the conduct of Warren Hastings.

indeed, considered them, if founded in facts, to render every other amplification unnecessary. The first of them is as follows :—'It was known at that time, that Mr. Hastings had not only descended from a public to a private station, but that he was persecuted with accusations and impeachments. But none of these *suffering millions* have sent their complaints to this country: not a sigh nor a groan has been wafted from India to Britain. On the contrary, testimonies the most honourable to the character and merit of Mr. Hastings, have been transmitted by those very princes whom he has been supposed to have loaded with the deepest injuries.'

"Here, Gentlemen, we must be permitted to pause together a little; for, in examining whether these pages were written as an honest answer to the charges of the Commons, or as a prostituted defence of a notorious criminal, whom the writer believed to be guilty, truth becomes material at every step. For if, in any instance, he be detected of a wilful misrepresentation, he is no longer an object of your attention.

"Will the Attorney-general proceed, then, to detect the hypocrisy of our author, by giving us some details of the proofs by which these personal enormities have been established, and which the writer must be supposed to have been acquainted with? I ask this as the defender of Mr. Stockdale, not of Mr. Hastings, with whom I have no concern. I am sorry, indeed, to be so often obliged to repeat this protest; but I really feel myself embarassed with those repeated coincidences of defence which thicken on me as I advance, and which were, no doubt, overlooked by the Commons when they directed this interlocutory inquiry into his conduct. I ask, then, as counsel for Mr. Stockdale, whether, when a great state criminal is brought for justice at an immense expense to the public, accused of the most oppressive cruelties, and charged with the robbery of princes and the destruction of nations, it is not open to any one to ask, Who are his accusers? What are the sources and the authorities of these shocking complaints? Where are the ambassadors or memorials of those princes whose revenues he has plundered? Where are the witnesses for those unhappy men in whose persons the rights of humanity have been violated? How deeply buried is the blood of the innocent, that it does not rise up in retributive judgment to confound the guilty! These, surely, are questions, which, when a fellow-citizen is upon a long, painful, and expensive trial, humanity has a right to propose; which the plain sense of the most unlettered man may be expected to dictate, and which all history must provoke from the more enlightened. When CICERO impeached VERRES* before the great tribunal of Rome, of similar cruelties and depredations in *her* provinces, the Roman people were not left to such inquiries. All Sicily surrounded the Forum, demanding justice upon her plunderer and

* Verres was, as prætor and governor of Sicily, guilty of such extortion and oppression, that the Sicilian people brought an accusation against him in the Senate, and Cicero conducted the impeachment. Verres was defended by Hortensius, a celebrated orator; but, aware of the justice of the accusation, he left Rome without waiting the result.

spoiler, with tears and imprecations. It was not by the eloquence of the orator, but by the cries and tears of the miserable, that Cicero prevailed in that illustrious cause. Verres fled from the oaths of his accusers and their witnesses, and not from the voice of Tully. To preserve the fame of his eloquence, he composed his five celebrated speeches, but they were never delivered against the criminal, because he had fled from the city, appalled with the sight of the persecuted and the oppressed. It may be said that the cases of Sicily and India are widely different; perhaps they may be; whether they are or not, is foreign to my purpose. I am not bound to deny the possibility of answers to such questions; I am only vindicating *the right to ask them.*

"Gentlemen, the author, in the other passage which I marked out to your attention goes on thus:—'Sir John Macpherson and Lord Cornwallis, his successors in office, have given the same voluntary tribute of approbation to his measures as Governor-general of India. A letter from the former, dated the 10th of August, 1786, gives the following account of our dominions in Asia: 'The native inhabitants of this kingdom are the happiest and best-protected subjects in India: our native allies and tributaries confide in our protection; the country powers are aspiring to the friendship of the English; and from the King of Tidore, towards New Guinea, to Timur Shaw, on the banks of the Indus, there is not a state that has not *lately* given us proofs of confidence and respect.''

"Still pursuing the same test of sincerity, let us examine this defensive allegation.

"Will the Attorney-general say that he does not believe such a letter from Lord Cornwallis ever existed? No: for he knows that it is as authentic as any document from India upon the table of the House of Commons. What, then, is the letter? The native inhabitants of this kingdom, says Lord Cornwallis (writing from the very spot), are the happiest and best protected subjects in India, &c., &c., &c. The inhabitants of *this kingdom! Of what kingdom?* Of the very kingdom which Mr. Hastings has just returned from governing for thirteen years, and for the misgovernment and desolation of which, he stands every day as a criminal, or rather as a spectacle, before us. This is matter for serious reflection, and fully entitles the author to put the question which immediately follows: 'Does this authentic account of the administration of Mr. Hastings, and of the state of India, correspond with the gloomy picture of despotism and despair drawn by the *Committee of Secresy?*'

"Had that picture been even drawn by the House of Commons itself, he would have been fully justified in asking this question; but you observe it has no bearing on it; the last words not only entirely destroy that interpretation but also the meaning of the very next passage, which is selected by the information as criminal, namely, 'What credit can we give to multiplied and accumulated charges, when we find that they originate from misrepresentation and falsehood?'

" This passage, which is charged as a libel on the Commons, when thus compared with its immediate antecedent, can bear but one construction. It is impossible to contend that it charges misrepresentation on the House that found the impeachment, but upon the *Committee of Secresy* just before adverted to, who were supposed to have selected the matter, and brought it before the whole House for judgment.

" I do not mean, as I have often told you, to vindicate any calumny on that honourable committee, or upon any individual of it, any more than upon the Commons at large ; BUT THE DEFENDANT IS NOT CHARGED BY THIS INFORMATION WITH ANY SUCH OFFENCES.

" Let me here pause once more to ask you, whether the book in its genuine state, as far as we have advanced in it, makes the same impression on your minds now, as when it was first read to you in detached passages ; and whether, if I were to tear off the first part of it which I hold in my hand, and give it to you as an entire work, the first and last passages which have been selected as libels on the Commons, would now appear to be so, when blended with the interjacent parts ? I do not ask your answer : I shall have it in your verdict. The question is only put to direct your attention in pursuing the remainder of the volume to this main point—Is IT AN HONEST SERIOUS DEFENCE ? For this purpose, and as an example for all others, I will read the author's entire answer to the first article of charge concerning Cheit Sing, the Zemindar of Benares,* and leave it to your impartial judgments to determine, whether it be a mere cloak and cover for the slander imputed by the information to the concluding sentence of it, which is the only part attacked ; or whether, on the contrary, that conclusion itself, when embodied with what goes before it, does not stand explained and justified ?

" ' The first article of impeachment,' continues our author, ' is concerning Cheit Sing, the Zemindar of Benares. Bulwart Sing, the father of this Rajah was merely an *aumil*, or farmer and collector of the revenues for Sujah ul Dowlah, Nabob of Oude, and Vizir of the Mogul empire. When, on the decease of his father, Cheit Sing was confirmed in the office of collector for the Vizir, he paid 200,000 pounds as a gift or nuzzeranah, and an additiona rent of 30,000 pounds per annum.

" As the father was no more than an *aumil*, the son succeeded only to hisl rights and pretensions. But by a sunnud granted to him by the Nabob Sujah Dowlah in September 1773, through the influence of Mr Hastings, he acquired a legal title to property in the land, and was raised from the office of *aumil* to the rank of Zemindar. About four years after the death of Bulwart Sing, the Governor-general and council of Bengal obtained the sovereignty paramount of the province of Benares. On the transfer of this sovereignty the governor and council proposed a new grant to Cheit Sing, confirming his former privileges, and conferring upon him the addition of the

* See ante p. 106.

sovereign rights of the Mint, and the powers of criminal justice with regard to life and death. He was then recognised by the Company as one of their Zemindars; a tributary subject, or feudatory vassal, of the British empire in Hindostan. The feudal system, which was formerly supposed to be peculiar to our Gothic ancestors, has always prevailed in the East. In every description of that form of government, notwithstanding accidental variations, there are two associations expressed or understood; one for internal security, the other for external defence. The King or Nabob confers protection on the feudatory baron as tributary prince, on condition of an annual revenue in the time of peace, and of military service, partly commutable for money, in the time of war. The feudal incidents in the middle ages in Europe, the fine paid to the superior on *marriage*, *wardship*, *relief*, &c., correspond to the annual tribute in Asia. Military service in war, and extraordinary aids in the event of extraordinary emergencies, were common to both.*

When the Governor-general of Bengal, in 1778, made an extraordinary demand on the Zemindar of Benares for five lacks of rupees, the British empire, in that part of the world, was surrounded with enemies which threatened its destruction. In 1779, a general confederacy was formed among the great powers of Hindostan for the expulsion of the English from their Asiatic dominions. At this crisis the expectation of a French armament augmented the general calamities of the country. Mr. Hastings is charged by the committee with making his first demand under the false pretence that hostilities had commenced with France. Such an insidious attempt to pervert a meritorious action into a crime is new, even in the history of impeachments. On the 7th of July, 1778, Mr. Hastings received private intelligence from an English merchant at Cairo, that war had been declared by Great Britain on the 23rd of March, and by France on the 30th of April. Upon this intelligence, considered as authentic, it was determined to attack all the French settlements in India. The information was afterwards found

* Notwithstanding this analogy, the powers and privileges of a Zemindar have never been so well ascertained and defined as those of a baron in the feudal ages. Though the office has usually descended to the posterity of the Zemindar, under the ceremony of fine and investiture, a material decrease in the cultivation, or decline in the population of the district, has sometimes been considered as a ground to dispossess him. When Zemindars have failed in their engagements to the state, though not to the extent to justify expulsion, supervisors have been often sent into the Zemindaries, who have farmed out the lands, and exercised authority under the Duannee laws, independent of the Zemindar. These circumstances strongly mark their *dependence* on the Nabob. About a year after the departure of Mr. Hastings from India, the question concerning the rights of Zemindars was agitated at great length in Calcutta; and after the fullest and most accurate investigation, the Governor-general and Council gave it as their deliberate opinion to the Court of Directors, that the property of the soil is not in the Zemindar, but in the government; and that a Zemindar is merely an officer of government appointed to collect its revenues. Cheit Sing understood himself to stand in this predicament. "I am," said he on various occasions, "the servant of the Circar (government), and ready to obey your orders." The name and office of Zemindar is not of Hindoo, but Mogul institution.

to be premature; but in the latter end of August a secret dispatch was received from England, authorising and appointing Mr, Hastings to take the measures which he had already adopted in the preceding month. The Directors and the Board of Control have expressed their approbation of this transaction, by liberally rewarding Mr. Baldwyn, the merchant, for sending the earliest intelligence he could procure to Bengal. It was two days after Mr. Hastings's information of the French war, that he formed the resolution of exacting the five lacks of rupees* from Cheit Sing, and would have made similar exactions from all the dependencies of the Company in India, had they been in the same circumstances. The fact is, that the great Zemindars of Bengal pay as much to government as their lands can afford.—Cheit Sing's collections were above fifty lacks, and his rent not twenty-four.

"'The right of calling for extraordinary aids and military service in times of danger, being universally established in India, as it was formerly in Europe during the feudal times, the subsequent conduct of Mr. Hastings is explained and vindicated. The Governor-general and Council of Bengal having made a demand upon a tributary Zemindar for three successive years, and that demand having been resisted by their vassal, they are justified in his punishment. The necessities of the Company, in consequence of the critical situation of their affairs in 1781, calling for a high fine—the ability of the Zemindar, who possessed near two crores of rupees in money and jewels, to pay the sum required—his backwardness to comply with the demands of his superiors—his disaffection to the English interest, and desire of revolt, which even then began to appear, and were afterwards conspicuous, fully justify Mr. Hastings in every subsequent step of his conduct. In the whole of his proceedings it is manifest that he had not early formed a design hostile to the Zemindar, but was regulated by events which he could neither foresee nor control. When the necessary measures which he had taken for supporting the authority of the Company, by punishing a refractory vassal, were thwarted and defeated by the barbarous massacre of the British troops, and the rebellion of Cheit Sing, the appeal was made to arms, an unavoidable revolution took place in Benares, and the Zemindar became the author of his own destruction.'

"Here follows the concluding passage, which is arraigned by the information:—

"'The decision of the House of Commons on this charge against Mr. Hastings, is one of the most singular to be met with in the annals of Parliament. The Minister, who was followed by the majority, vindicated him in everything that he had *done*, and found him blameable only for what he *intended* to do; justified every step of his *conduct*, and only criminated his proposed *intention* of converting the crimes of the Zemindar to the benefit of the state, by a fine of fifty lacks of rupees. An impeachment of *error* in *judgment* with regard to the *quantum* of a fine, and for an *intention* that never

* See ante p. 106, and also p. 127.

was *executed*, and never known to the offending party, characterises a tribunal of *inquisition* rather than a court of Parliament.'

"Gentlemen, I am ready to admit that this sentiment might have been expressed in language more reserved and guarded; but you will look to the sentiment itself, rather than to its dress,—to the mind of the writer, and not to the bluntness with which he may happen to express it. It is obviously the language of a warm man, engaged in the honest defence of his friend, and who is brought to what he thinks a just conclusion in argument, which, perhaps, becomes offensive in proportion to its truth. Truth is undoubtedly no warrant for writing what is reproachful of any *private* man. If a member of society lives within the law, then, if he offends, it is against God alone, and man has nothing to do with him; and if he transgress the laws, the libeller should arraign him before them, instead of presuming to try him himself. But as to writings on *general subjects*, which are not charged as an infringement on the rights of individuals, but as of a seditious tendency, it is far otherwise. When, in the progress either of legislation, or of high national justice in Parliament, they, who are amenable to no law, are supposed to have adopted through mistake or error a principle which, if drawn into precedent, might be dangerous to the public, I shall not admit it to be a libel in the course of a legal and *bonâ fide* publication, to state that such a principle had *in fact* been adopted. The people of England are not to be kept in the dark touching the proceedings of their own representatives. Let us, therefore, coolly examine this supposed offence, and see what it amounts to.

"First, was not the conduct of the right honourable gentleman, whose name is here mentioned, exactly what it is represented? Will the Attorney-general, who was present in the House of Commons, say that it was not? Did not the Minister vindicate Mr. Hastings in what he *had done*,* and was not his consent to that article of the impeachment founded on the *intention only* of levying a fine on the Zemindar for the service of the state, beyond the quantum which he, the Minister, thought reasonable? What else is this but an impeachment of error in judgment in the quantum of a fine?

"So much for the first part of the sentence, which, regarding Mr. Pitt only, is foreign to our purpose; and as to the last part of it, which imputes the sentiments of the Minister to the majority that followed him with their votes on the question, that appears to me to be giving handsome credit to the majority for having voted from conviction, and not from courtesy to the Minister. To have supposed otherwise, I dare not say, would have been a more *natural* libel, but it would certainly have been a greater one. The sum and substance, therefore, of the paragraph is only this,—that an impeachment for an error in judgment is not consistent with the theory or the practice of the English Government. So say I. I say, without reserve, speaking merely in the abstract, and not meaning to decide upon the merits of

* Mr. Pitt expressed his opinion that, admitting the right of Mr. Hastings to tax the Zemindar, his general conduct in the business had been unnecessarily severe.

Mr. Hastings's cause, that an impeachment for an error in judgment is contrary to the whole spirit of English criminal justice, which, though not binding on the House of Commons, ought to be a guide to its proceedings. I say that the extraordinary jurisdiction of impeachment ought never to be assumed to expose error, or to scourge misfortune, but to hold up a terrible example to corruption and *wilful* abuse of authority by extra legal pains. If public men are always punished with due severity, when the source of their misconduct appears to have been *selfishly corrupt and criminal*, the public can never suffer when their errors are treated with gentleness. From such protection to the magistrate, no man can think lightly of the charge of magistracy itself, when he sees, by the language of the saving judgment, that the only title to it is an honest and zealous intention. If at this moment, Gentlemen, or indeed in any other in the whole course of our history, the people of England were to call upon every man in this impeaching House of Commons, who had given his voice on public questions, or acted in authority civil or military, to answer for the issues of our councils and our wars, and if honest single intentions for the public service were refused as answers to impeachments, we should have many relations to mourn for, and many friends to deplore. For my own part, Gentlemen, I feel, I hope, for my country as much as any man that inhabits it; but I would rather see it fall, and be buried in its ruins, than lend my voice to wound any minister, or other responsible person, however unfortunate, who had fairly followed the lights of his understanding and the dictates of his conscience for their preservation.

"Gentlemen, this is no theory of mine; it is the language of English law, and the protection which it affords to every man in office, from the highest to the lowest trust of Government. In no one instance that can be named, foreign or domestic, did the Court of King's Bench ever interpose its extraordinary jurisdiction, by information, against any magistrate for the widest departure from the rule of his duty, without *the plainest and clearest proof of corruption*. To every such application, not so supported, the constant answer has been, Go to a grand jury with your complaint. God forbid that a magistrate should suffer from an error in judgment, if his purpose was honestly to discharge his trust. We cannot stop the ordinary course of justice; but wherever the Court has a discretion, such a magistrate is entitled to its protection. I appeal to the noble Judge, and to every man who hears me, for the truth and universality of this position. And it would be a strange solecism, indeed, to assert that—in a case where the supreme court of criminal justice in the nation would refuse to interpose an extraordinary though a legal jurisdiction, on the principle that the ordinary execution of the laws should never be exceeded, but for the punishment of malignant guilt—the Commons, in their higher capacity, growing out of the same constitution, should reject that principle, and stretch them still further by a jurisdiction still more eccentric. Many impeachments have taken place, because the law *could not* adequately punish the objects of them; but whoever heard of one

being set on foot because the law, upon principle, *would not* punish them? Many impeachments have been adopted for a *higher* example than a prosecution in the ordinary courts, but surely never for a *different* example. The matter, therefore, in the offensive paragraph is not only an indisputable truth, but a truth in the propagation of which we are all deeply concerned.

"Whether Mr. Hastings, in the particular instance, acted from corruption or from zeal for his employers, is what I have nothing to do with; it is to be decided in judgment: my duty stops with wishing him, as I do, an honourable deliverance. Whether the minister or the Commons meant to found this article of the impeachment on mere error, without corruption, is likewise foreign to the purpose. The author could only judge from what was said and done on the occasion. He only sought to guard the principle, which is a common interest, and the rights of Mr. Hastings under it. He was, therefore, justified in publishing, that an impeachment, founded in error in judgment, was, to all intents and purposes, illegal, unconstitutional, and unjust.

"Gentlemen, it is now time for us to return again to the work under examination. The author having discussed the whole of the first article through so many pages, without even the imputation of an incorrect or intemperate expression, except in the concluding passage (the meaning of which I trust I have explained), goes on with the same earnest disposition to the discussion of the second charge respecting the princesses of Oude,* which occupies EIGHTEEN pages, not one syllable of which the Attorney-general has read, and on which there is not even a glance at the House of Commons. The whole of this answer is, indeed, so far from being a mere cloak for the introduction of slander, that I aver it to be one of the most masterly pieces of writing I ever read in my life. From thence he goes on to the charge of contracts and salaries, which occupies FIVE pages more, in which there is not a glance at the House of Commons, nor a word read by the Attorney-general. He afterwards defends Mr. Hastings against the charges respecting the opium contracts.—Not a glance at the House of Commons: not a word by the Attorney-general. And, in short, in this manner he goes on with the others, to the end of the book.

"Now, is it possible for any human being to believe that a man, having no other intention than to vilify the House of Commons (as this information charges), should yet keep his mind thus fixed and settled as the needle to the pole, upon the serious merits of Mr. Hastings's defence, without ever straying into matter even questionable, except in the two or three selected parts out of two or three hundred pages? This is a forbearance which could not have existed, if calumny and detraction had been the malignant objects which led him to the inquiry and publication. The whole fallacy,

* See the speeches of Mr. Sheridan on moving the impeachment on this charge, ante p. 106; and afterwards, in support of the impeachment, in Westminster Hall, ante p. 137.

therefore, arises from holding up to view a few detached passages, and carefully concealing the general tenor of the book.

"Having now finished most, if not all of these *critical* observations, which it has been my duty to make upon this unfair mode of prosecution; it is but a tribute of common justice to the Attorney-general (and which my personal regard for him makes it more pleasant to pay), that none of my commentaries reflect in the most distant manner upon him; nor upon the Solicitor for the Crown, who sits near me, who is a person of the most correct honour; far from it. The Attorney-general having orders to prosecute, in consequence of the address of the House to his Majesty, had no choice in the mode; no means at all of keeping the prosecutors before you in countenance, but by the course which has been pursued; but so far has he been from enlisting into the cause those prejudices, which it is not difficult to slide into a business originating from such exalted authority, he has honourably guarded you against them; pressing, indeed, severely upon my client with the weight of his ability, but not with the glare and trappings of his high office.

"Gentlemen, I wish that my strength would enable me to convince you of the author's singleness of intention, and of the merit and ability of his work, by reading the whole that remains of it. But my voice is already nearly exhausted; I am sorry my client should be a sufferer by my infirmity. One passage, however, is too striking and important to be passed over; the rest I must trust to your private examination. The author having discussed all the charges, article by article, sums them all up with this striking appeal to his readers:—

"'The authentic statement of facts which has been given, and the arguments which have been employed, are, I think, sufficient to vindicate the character and conduct of Mr. Hastings, even on the maxims of European policy. When he was appointed Governor-general of Bengal, he was invested with a discretionary power to promote the interests of the India Company, and of the British empire in that quarter of the globe. The general instructions sent to him from his constituents were, '*That in all your deliberations and resolutions, you make the safety and prosperity of Bengal your principal object, and fix your attention on the security of the possessions and revenues of the Company.*' His superior genius sometimes acted in the spirit, rather than complied with the letter, of the law; but he discharged the trust, and preserved the empire committed to his care, in the same way, and with greater splendour and success than any of his predecessors in office; his departure from India was marked with the lamentations of the natives, and the gratitude of his countrymen; and, on his return to England, he received the cordial congratulations of that numerous and respectable society, whose interests he had promoted, and whose dominions he had protected and extended.'

"Gentlemen of the Jury,—If this be a wilfully false account of the instructions given to Mr. Hastings for his government, and of his conduct

under them, the author and publisher of this defence deserve the severest punishment, for a mercenary imposition on the public. But if it be true that he was directed to make the *safety and prosperity of Bengal the first object of his attention*, and that, under his administration, it has been safe and prosperous; if it be true that the security and preservation of our possessions and revenues in Asia were marked out to him as the great leading principle of his government, and that those possessions and revenues, amidst unexampled dangers, have been secured and preserved; then a question may be unaccountably mixed with your consideration, much beyond the consequence of the present prosecution, involving, perhaps, the merit of the impeachment itself which gave it birth—a question which the Commons, as prosecutors of Mr. Hastings, should, in common prudence, have avoided; unless, regretting the unwieldy length of their proceedings against him, they wish to afford him the opportunity of this strange anomalous defence. For, although I am neither his counsel, nor desire to have anything to do with his guilt or innocence; yet, in the collateral defence of my client, I am driven to state matter which may be considered by many as hostile to the impeachment. For if our dependencies have been secured, and their interests promoted, I am driven in the defence of my client to remark, that it is mad and preposterous to bring to the standard of justice and humanity, the exercise of a dominion founded upon violence and terror.* It may and must be true that Mr. Hastings has repeatedly offended against the rights and privileges of Asiatic government, if he was the faithful deputy of a power which could not maintain itself for an hour without trampling upon both: he may and must have offended against the laws of God and nature if he was the faithful viceroy of an empire wrested in blood from the people to whom God and nature had given it: he may and must have preserved that unjust dominion over timorous and abject nations by a terrifying, overbearing, insulting superiority, if he was the faithful administrator of your government, which, having no root in consent or affection—no foundation in similarity of interests—nor support from any one principle which cements men together in society, could only be upheld by alternate stratagem and force. The unhappy people of India, feeble and effeminate as they are from the softness of their climate, and subdued and broken as they have been by

* Although Mr. Hastings cannot be otherwise than highly censurable for the oppressive and unscrupulous mode in which he carried out his political schemes, yet considerable allowance must be made for him when it is remembered that he completely restored the finances of the country, which he found in the utmost disorder; and that he established the British empire in India on a firm basis, at a time when, under a less energetic government than his own, it would inevitably have fallen altogether: and, in addition to this, he was being constantly pressed by the Directors of the East India Company for remittances of money, which could only be extorted by oppression. Although his government was arbitrary, yet it was popular among the natives, being milder and more just than that of their own princes; while he himself was respected for the unusual regard which he paid to native prejudices and customs, and his patronage of literature and the fine arts.

the knavery and strength of civilisation, still occasionally start up in all the vigour and intelligence of insulted nature. To be governed at all, they must be governed with a rod of iron; and our empire in the East would, long since, have been lost to Great Britain, if civil skill and military prowess had not united their efforts to support an authority—which Heaven never gave—by means which it never can sanction.

"Gentlemen, I think I can observe that you are touched with this way of considering the subject; and I can account for it. I have not been considering it through the cold medium of books, but have been speaking of man and his nature, and of human dominion, from what I have seen of them myself amongst reluctant nations submitting to our authority. I know what they feel, and how such feelings can alone be repressed. I have heard them in my youth from a naked savage, in the indignant character of a prince surrounded by his subjects, addressing the governor of a British colony, holding a bundle of sticks in his hand, as the notes of his unlettered eloquence: 'Who is it?' said the jealous ruler over the desert, encroached upon by the restless foot of English adventure—'who is it that causes this river to rise in the high mountains, and to empty itself into the ocean? Who is it that causes to blow the loud winds of winter, and that calms them again in the summer? Who is it that rears up the shade of those lofty forests, and blasts them with the quick lightning at his pleasure?—The same Being who gave to you a country on the other side of the waters, and gave ours to us; and by this title we will defend it,' said the warrior, throwing down his tomohawk upon the ground, and raising the war-sound of his nation. These are the feelings of subjugated man all round the globe; and depend upon it, nothing but fear will control where it is vain to look for affection.

"These reflections are the only antidotes to those anathemas of superhuman eloquence which have lately shaken these walls that surround us; but which it unaccountably falls to my province, whether I will or no, a little to stem the torrent of—by reminding you that you have a mighty sway in Asia, which cannot be maintained by the finer sympathies of life, or the practice of its charities and affections; what will *they* do for you when surrounded by two hundred thousand men with artillery, cavalry, and elephants, calling upon you for their dominions which you have robbed them of? Justice may, no doubt, in such a case forbid the levying of a fine to pay a revolting soldiery;—a treaty may stand in the way of increasing a tribute to keep up the very existence of the government;—and delicacy for women may forbid all entrance into a Zenana for money, whatever may be the necessity for taking it.* All these things must ever be occurring. But under the pressure of such constant difficulties, so dangerous to national honour, it might be better perhaps to think of effectually securing it altogether, by recalling our troops and our merchants, and abandoning our Oriental empire. Until this be done, neither religion nor philosophy can be

* See introductory explanation to Mr. Sheridan's speech, ante pp. 106, 107.

pressed very far into the aid of reformation and punishment. If England, from a lust of ambition and dominion, will insist on maintaining despotic rule over distant and hostile nations, beyond all comparison more numerous and extended than herself, and gives commission to her viceroys to govern them with no other intructions than to preserve them, and to secure permanently their revenues; with what colour of consistency or reason can she place herself in the moral chair, and affect to be shocked at the execution of her own orders; adverting to the exact measure of wickedness and injustice necessary to their execution, and complaining only of *the excess* as the immorality, considering her authority as a dispensation for breaking the commands of God, and the breach of them as only punishable when contrary to the ordinances of man.

"Such a proceeding, Gentlemen, begets serious reflection. It would be better, perhaps, for the masters and the servants of all such governments, to join in supplication, that the great Author of violated humanity may not confound them together in one common judgment.

"Gentlemen, I find, as I said before, I have not sufficient strength to go on with the remaining parts of the book. I hope, however, that, notwithstanding my omissions, you are now completely satisfied, that whatever errors or misconceptions may have misled the writer of these pages, the justification of a person whom he believed to be innocent, and whose accusers had themselves appealed to the public, was the single object of his contemplation. If I have succeeded in that object, every purpose which I had in addressing you has been answered.

"It only now remains to remind you, that another consideration has been strongly pressed upon by you, and, no doubt, will be insisted on in reply. You will be told, that the matters which I have been justifying as legal, and even meritorious, have therefore not been made the subject of complaint; and that whatever intrinsic merit parts of the book may be supposed or even admitted to possess, such merit can afford no justification to the selected passages, some of which, even with the context, carry the meaning charged by the information, and which are indecent animadversions on authority. To this I would answer (still protesting as I do against the application of any one of the innuendoes), that if you are firmly persuaded of the singleness and purity of the author's intentions, you are not bound to subject him to infamy, because, in the zealous career of a just and animated composition, he happens to have tripped with his pen into an intemperate expression in one or two instances of a long work. If this severe duty were binding on your consciences, the liberty of the press would be an empty sound, and no man could venture to write on any subject, however pure his purpose, without an attorney at one elbow, and a counsel at the other.

"From minds thus subdued by the terrors of punishment, there could issue no works of genius to expand the empire of human reason, nor any masterly compositions on the general nature of government, by the help of which the great commonwealths of mankind have founded their establish-

ments; much less any of those useful applications of them to critical conjunctures, by which, from time to time, our own constitution, by the exertion of patriot citizens, has been brought back to its standard. Under such terrors, all the great lights of science and civilisation must be extinguished: for men cannot communicate their free thoughts to one another with a lash held over their heads. It is the nature of everything that is great and useful, both in the animate and inanimate world, to be wild and irregular, and we must be contented to take them with the alloys which belong to them, or live without them. Genius breaks from the fetters of criticism, but its wanderings are sanctioned by its majesty and wisdom when it advances in its path: subject it to the critic, and you tame it into dulness. Mighty rivers break down their banks in the winter, sweeping away to death the flocks which are fattened on the soil that they fertilize in the summer: the few may be saved by embankments from drowning, but the flock must perish for hunger. Tempests occasionally shake our dwellings and dissipate our commerce; but they scourge before them the lazy elements, which without them would stagnate into pestilence. In like manner, Liberty herself, the last and best gift of God to his creatures, must be taken just as she is: you might pare her down into bashful regularity, and shape her into a perfect model of severe scrupulous law, but she would then be Liberty no longer; and you must be content to die under the lash of this inexorable justice which you had exchanged for the banners of Freedom.

"If it be asked, where the line to this indulgence and impunity is to be drawn, the answer is easy. The liberty of the press *on general subjects* comprehends and implies as much strict observance of positive law as is consistent with perfect purity of intention, and equal and useful society; and what that latitude is, cannot be promulgated in the abstract, but must be judged of in the particular instance, and consequently, upon this occasion, must be judged of by you, without forming any possible precedent for any other case; and where can the judgment be possibly so safe as with the members of that society which alone can suffer, if the writing is calculated to do mischief to the public? You must, therefore, try the book by that criterion, and say whether the publication was premature and offensive, or, in other words, whether the publisher was bound to have suppressed it until the public ear was anticipated and abused, and every avenue to the human heart or understanding secured and blocked up? I see around me those by whom, by and by, Mr. Hastings will be most ably and eloquently defended;* but I am sorry to remind my friends, that, but for the right of suspending the public judgment concerning him till their season of exertion comes round, the tongues of angels would be insufficient for the task.

"Gentlemen, I hope I have now performed my duty to my client: I sincerely hope that I have; for, certainly, if ever there was a man pulled the other way by his interests and affections—if ever there was a man who should

* Mr. Law, (afterwards Lord Ellenborough,) Mr. Plumer, and Mr. Dallas.

have trembled at the situation in which I have been placed on this occasion, it is myself, who not only love, honour, and respect, but whose future hopes and preferments are linked, from free choice, with those who, from the mistakes of the author, are treated with great severity and injustice. These are strong retardments; but I have been urged on to activity by considerations which can never be inconsistent with honourable attachments, either in the political or social world—the love of justice and of liberty, and a zeal for the constitution of my country, which is the inheritance of our posterity, of the public, and of the world. These are the motives which have animated me in defence of this person, who is an entire stranger to me—whose shop I never go to—and the author of whose publication, as well as Mr. Hastings, who is the object of it, I never spoke to in my life.

"One word more, gentlemen, and I have done. Every human tribunal ought to take care to administer justice, as we look, hereafter, to have justice administered to ourselves. Upon the principle on which the Attorney-general prays sentence upon my client—God have mercy upon us! Instead of standing before him in judgment with the hopes and consolations of Christians, we must call upon the mountains to cover us; for which of us can present, for omniscient examination, a pure, unspotted, and faultless course? But I humbly expect that the benevolent author of our being will judge us as I have been pointing out for your example. Holding up the great volume of our lives in his hands, and regarding the general scope of them;—if he discovers benevolence, charity, and good-will to man beating in the heart, where He alone can look;—if he finds that our conduct, though often forced out of the path by our infirmities, has been in general well directed;—his all-searching eye will assuredly never pursue us into those little corners of our lives, much less will his justice select them for punishment, without the general context of our existence, by which faults may be sometimes found to have grown out of virtues, and very many of our heaviest offences to have been grafted by human imperfection upon the best and kindest of our affections. No, gentlemen, believe me, this is not the course of divine justice, or there is no truth in the Gospels of Heaven. If the general tenour of a man's conduct be such as I have represented it, he may walk through the shadow of death, with all his faults about him, with as much cheerfulness as in the common paths of life; because he knows that, instead of a stern accuser to expose before the Author of his nature those frail passages which, like the scored matter in the book before you, chequers the volume of the brightest and best-spent life, his mercy will obscure them from the eye of his purity, and our repentance blot them out for ever.

"All this would, I admit, be perfectly foreign and irrelevant, if you were sitting here in a case of property between man and man, where a strict rule of law must operate, or there would be an end of civil life and society. It would be equally foreign, and still more irrelevant, if applied to those shameful attacks upon private reputation which are the bane and disgrace of the press; by which whole families have been rendered unhappy during life,

by aspersions cruel, scandalous, and unjust. Let such libellers remember, that no one of my principles of defence can, at any time or upon any occasion, ever apply to shield THEM from punishment; because such conduct is not only an infringement of the rights of men, as they are defined by strict law, but is absolutely incompatible with honour, honesty, or mistaken good intention. On such men let the Attorney-general bring forth all the artillery of his office, and the thanks and blessings of the whole public will follow him. But this is a totally different case. Whatever private calumny may mark this work, it has not been made the subject of complaint, and we have therefore nothing to do with that, nor any right to consider it. We are trying whether the public could have been considered as offended and endangered, if Mr. Hastings himself, in whose place the author and publisher have a right to put themselves, had, under all the circumstances which have been considered, composed and published the volume under examination. That question cannot, in common sense, be anything resembling a question of LAW, but is a pure question of FACT, to be decided on the principles which I have humbly recommended. I therefore ask of the Court that the book itself may now be delivered to you. Read it with attention, and as you shall find it, pronounce your verdict."

The Jury, after being absent two hours, returned a verdict of "Not Guilty."

SPEECH in defence of Mr. John Frost, who was indicted for uttering seditious words, and tried before Lord Kenyon and a special Jury, in Hilary Term, 1793.

The facts of the case, as they appeared in evidence, were these. Mr. Frost, an attorney, having lately returned to this country from France (at that time under the government of the Convention, and hastening towards the revolutionary crisis), happened, on the 6th of November, 1792, to dine with an agricultural society, at the Percy Coffee-house; and, on his coming down from the private room where he had been dining into the public coffee-room, between nine and ten in the evening, he was addressed by a person of the name of Yatman, who, knowing Mr. Frost, and that he had just returned from the Continent, said to him, "Well, how do they go on in France?" Upon which, Mr. Frost, who was heated with wine, in an excited manner and a loud voice, exclaimed, "I am for equality, and no King." Mr. Yatman replied, "What! no king in this country?" and Mr. Frost then repeated, in as loud a tone as he could, "Yes, no king; there ought to be no king." And it was for the use of this seditious language, and for nothing beyond this, that the indictment was preferred.

"GENTLEMEN OF THE JURY.

"I rise to address you under circumstances so peculiar, that I consider myself entitled, not only for the defendant arraigned before you, but personally for myself, to the utmost indulgence of the Court. I came down this morning with no other notice of the duty cast upon me in this cause, nor any

other direction for the premeditation necessary to its performance, than that which I have ever considered to be the safest and the best—namely, the records of the Court, as they are entered here for trial, where, for the ends of justice, the charge must always appear with the most accurate precision, that the accused may know what crime he is called upon to answer, and his counsel how he may defend him. Finding, therefore, upon the record which arraigns the defendant, a simple, unqualified charge of seditious words, unconnected, and uncomplicated with any extrinsic events, I little imagined that the conduct of my client was to receive its colour and construction from the present state of France, or rather of all Europe, as affecting the condition of England; I little dreamed that the 6th day of November (which, reading the indictment, I had a right to consider like any other day in the calendar,) was to turn out an epoch in this country (for so it is styled in the argument), and that, instead of having to deal with idle, thoughtless words, uttered over wine, through the passage of a coffee-house, with whatever at any time might belong to them, I was to meet a charge, of which I had no notice or conception, and to find the loose dialogue, which, even upon the face of the record itself, exhibits nothing more than a casual sudden conversation, exalted to an accusation of the most premeditated, serious, and alarming nature,—verging upon high treason itself, by its connexion with the most hostile purposes to the state,—and assuming a shape still more interesting from its dangerous connexion with certain mysterious conspiracies, which, in confederacy with French republicans, threaten, *it seems*, the constitution of our once happy country.

"Gentlemen, I confess myself much unprepared for a discussion of this nature, and a little disconcerted at being so; for though, as I have said, I had no notice from the record, that the politics of Europe were to be the subject of discourse, yet experience ought to have taught me to expect it; for what act of Government has, for a long time past, been carried on by any other means? *When* or *where* has been the debate, or *what* has been the object of authority, in which the affairs of France have not taken the lead?* The affairs of France have indeed become the common stalking-horse for all state purposes. I know the honour of my learned friend† too well to impute to him the introduction of them for any improper or dishonourable purpose; I am sure he connects them in his own mind with the subject, and thinks them legally before you: I am bound to think so, because the general tenour of his address to you has been manly and candid. But I assert, that neither the actual condition of France, nor the supposed condition of this country, are, or can be, in any shape, before you; and that upon the trial of

* The opposition party constantly attacked Mr. Pitt and Government at this time, for excessive caution in the prevention of sedition; but seeing, as he did, the rapid progress of republicanism all over Europe, and the endeavours, by the disaffected, to introduce into this country by public meetings and seditious publications, he little deserved the taunts he was obliged to endure.

† The Attorney-general, Sir A. Macdonald.

this indictment, supported only by the evidence you have heard, the words must be judged of as if spoken by any man or woman in the kingdom, at any time from the Norman conquest to the moment I am addressing you.

"I admit indeed, that the particular time in which words are spoken, or acts committed, may most essentially alter their quality and construction, and give to expressions or conduct, which in another season might have been innocent, or at least indifferent, the highest and most enormous guilt; but, for that very reason the supposed particularity of the present times, as applicable to the matter before you, is absolutely shut out from your consideration, shut out upon the plainest and most obvious principle of justice and law; because, wherever *time* or *occasion* mix with an act, affect its quality, and constitute or enhance its criminality, they then become an essential part of the misdemeanour itself, and must consequently be charged as such upon the record. I plainly discover I have his Lordship's assent to this proposition. If, therefore, the Crown had considered this cause originally in the serious light in which it considers it to-day, it has wholly mistaken its course. If it had considered the government of France as actively engaged in the encouragement of disaffection to the monarchy of England, and that her newly-erected republic was set up by her as the great type for imitation and example here; if it had considered that numbers, and even classes of our countrymen were ripe for disaffection, if not for rebellion; and that the defendant, as an emissary of France, had spoken the words with the premeditated design of undermining our Government;—this situation of things might and ought to have been put *as facts upon the record*, and as facts established by evidence, instead of resting, as they do to-day, upon assertion. By such a course the crime indeed would have become of the magnitude represented; but, on the other hand, as the conviction could only have followed from the proof, the defendant, upon the evidence of to-day, must have an hour ago been acquitted; since not a syllable has been proved of any emissaries from France to debauch our monarchical principles; not even an insinuation in evidence, that, if there were any such, the defendant was one of them; not a syllable of proof, either directly or indirectly, that the condition of the country, when the words were uttered, differed from its ordinary condition in times of prosperity and peace. It is, therefore, a new and most compendious mode of justice, that the facts which wholly constitute, or, at all events, lift up the dignity and danger of the offence, should not be charged upon record, *because they could not be proved*, but are to be taken for granted in the argument, so as to produce the same effect upon the trial, and in the punishment, as if they had been actually charged, and completely established. If the affairs of France, as they are supposed to affect this country, had been introduced without a warrant from the charge or the evidence, I should have been wholly silent concerning them; but as they have been already mixed with the subject, in a manner so eloquent and affecting as, too probably, to have made a strong impression, it becomes my duty to endeavour at least to remove it.

"The late revolutions in France have been represented to you as not only ruinous to their authors, and to the inhabitants of that country, but as likely to shake and disturb the principles of this and all other governments; you have been told, that though the English people are generally well affected to their government—ninety-nine out of one hundred, upon Mr. Attorney-general's own statement—yet that wicked and designing men have long been labouring to overturn it, and that nothing short of the wise and spirited exertions of the present government (of which this prosecution is, it seems, one of the instances), have hitherto averted, or can continue to avert, the dangerous contagion, which misrule and anarchy are spreading over the world; that bodies of Englishmen, forgetting their duty to their own country and its constitution, have congratulated the Convention of France upon the formation of their monstrous government; and that the conduct of the defendant must be considered as a part of a deep-laid system of disaffection, which threatened the establishments of this kingdom.

"Gentlemen, this state of things having no support whatever from any evidence before you, and resting only upon opinion; I have an equal right to mine; having the same means of observation with other people of what passes in the world; and as I have a very clear one upon this subject, I will give it you in a few words.

"I am of opinion, then, that there is not the smallest foundation for the alarm which has been so industriously propagated; in which I am so far from being singular, that I verily believe the authors of it are themselves privately of the same way of thinking; but it was convenient for certain persons,* who had changed their principles, to find some plausible pretext for changing them; it was convenient for those, who, when out of power, had endeavoured to lead the public mind to the necessity of reforming the corruptions of our own government, to find any reasons for their continuance and confirmation, when they operated as engines to support themselves in the exercise of powers which were only odious when in other hands. For this honourable purpose the sober, reflecting, and temperate character of the English nation, was to be represented as fermenting into sedition, and into an insane contempt for the revered institutions of their ancestors; for this honourable purpose the wisest men—the most eminent for virtue—the most splendid in talents—the most independent for rank and property in the country, were, for no other crime than their perseverance in those sentiments which certain persons had originated and abandoned,† to be given up to the licentious pens and tongues of hired defamation, to be stabbed in the

* Among the principal were Mr. Burke, the Prince of Wales, the Duke of Portland, and Lords Spencer, Mansfield, Fitzwilliam, and Loughborough.

† In allusion to Mr. Pitt's altered opinions as to Parliamentary Reform; in early life himself bringing forward a bill in support of it, and in the late year, 1792, doing all in his power to suppress the society called "The Friends of the People," which numbered among its members many persons of high character, and was professedly formed for the purpose of procuring reform in Parliament.

dark by anonymous accusations, and to be held out to England and to the whole world, as conspiring, under the auspices of cut-throats, to overturn everything sacred in religion, and venerable in the ancient government of our country. Certain it is, that the whole system of government, of which the business we are now engaged in is no mean specimen, came upon the public with the suddenness of a clap of thunder, without one act to give it foundation, from the very moment that notice was given of a motion in Parliament, to reform the representation of the people.* Long, long before that time the 'Rights of Man,' and other books, though not complained of, had been written; equally long before it, the addresses to the French government, which have created such a panic, had existed; but as there is a give and take in this world, they passed unregarded. Leave but the practical corruptions, and they are contented to wink at the speculations of theorists, and the compliments of public-spirited civility; but the moment the national attention was awakened to look to things in practice, and to seek to reform corruptions at home, from that moment, as at the ringing of a bell, the whole hive began to swarm, and every man in his turn has been stung.

"This, gentlemen, is the real state of the case; and I am so far from pushing the observation beyond its bearing for the defence of a client, that I am ready to admit Mr. Frost, in his conduct, has not been wholly invulnerable, and that, in some measure, he has brought this prosecution upon himself.

"Gentlemen, Mr. Frost must forgive me, if I take the liberty to say, that, with the best intentions in the world, he formerly pushed his observations and conduct respecting Government further than many would be disposed to follow him. I cannot disguise or conceal from you, that I find his name in this green book, as associated with Mr. Pitt and the Duke of Richmond, at the Thatched House Tavern, in St. James's-street;† that I find him also the correspondent of the former, and that I discover in their publications on the structure and conduct of the House of Commons, expressions which, however merited, and in my opinion commendable, would now be considered, not merely as intemperate and unguarded, but as highly criminal.‡

* Mr. Charles Grey, at the request of the society of "The Friends of the People," on the 30th April, 1792, gave notice of his intention to bring forward, in the ensuing session, a motion to this effect.

† Mr. Erskine read the minute (in Mr. Pitt's own handwriting) of a meeting of Members of Parliament, and of members of several Committees of Counties and Cities, held at the Thatched House Tavern, at which Mr. Frost was present, on the 18th May, 1782, and at which resolutions were come to in approbation of Mr. Pitt's motion, on the 7th May previously, on the subject of the representation of the people in Parliament.

‡ The following are copies of Mr. Pitt's letters:—

"Lincoln's-inn, Friday, May 10th.

"Dear Sir,—I am extremely sorry that I was not at home, when you and the other gentlemen from the Westminster Committee did me the honour to call.

"May I beg the favour of you to express, that I am truly happy to find that the

"Gentlemen,—The fashion of this world speedily passeth away. We find these glorious restorers of equal representation, determined, *as ministers*, that, so far from every man being an elector, the metropolis of the kingdom should have no election at all; but should submit to the power, or to the softer allurements, of the Crown. Certain it is, that, for a short season, Mr. Frost being engaged professionally as agent for the Government candidate, did not (indeed, he could not) oppose this inconsistency between the doctrine and practice of his friends, and in this interregnum of public spirit, he was, in the opinion of Government, a perfect patriot, a faithful friend to the British constitution. As a member of the law he was, therefore, trusted with Government business in matters of revenue, and was, in short, what all the friends of Government, of course, are, the best and most approved; to save words, he was like all the rest of them,—just what he should be. But the election being over, and, with it, professional agency, and Mr. Frost, as he lawfully might, continuing to hold his former opinions —which were still avowed and gloried in, though not acted on, by his ancient friends—he, unfortunately, did not change them the other day, when they were thrown off by others; on the contrary, he rather seems to have taken fire with the prospect of reducing them to practice; and being, as I have shown you, bred in a school which took the lead in boldness of remonstrance of all other reformers before or since, he fell, in the heat and levity of wine, into expressions which have no correspondence with his sober judgment; which would have been passed over or laughed at in you or me, but which, coming from him, were never to be forgiven by Government. This is the genuine history of his offence: for this he is to be the subject of prosecution—not the prosecution of my learned friend—not the prosecution of the Attorney-general—not the prosecution of his Majesty; but the prosecution of Mr. Yatman, who wishes to show you his great loyalty to the state and constitution, which were in danger of falling, had it not been for the drugs of this worthy apothecary.

motion of Tuesday last has the approbation of such zealous friends to the public, and to assure the Committee, that my exertions shall never be wanting in support of a measure, *which I agree with them in thinking essentially necessary to the independence of Parliament and the liberty of the people.*

"I have the honour to be, with great respect and esteem,
"Sir,
"Your most obedient and most humble servant,
"John Frost, Esq., Percy-street." "W. Pitt."

"Lincoln's-inn, May 12th, 1782.

"Sir,—I have received the favour of your note, and shall be proud to receive the honour intended me by the gentlemen of the Middlesex Committee, at the time you mention.

"I am, with great regard,
"Sir,
"Your most humble servant,
"John Frost, Esq., Percy-street." "W. Pitt."

"With regard to the new government of France, since the subject has been introduced, all I can say of it is this: that the good or evil of it belongs to themselves; that they had a right, like every other people upon earth, to change their government; that the system destroyed was a system disgraceful to free and rational beings; and if they have neither substituted, nor shall hereafter substitute, a better in its stead, they must eat the bitter fruits of their own errors and crimes. As to the horrors which now disfigure and desolate that fine country, all good men must undoubtedly agree in condemning and deploring them, but they may differ nevertheless in deciphering their causes; men to the full as wise as those who pretend to be wiser than Providence, and stronger than the order of things, may, perhaps, reflect that a great fabric of unwarrantable power and corruption could not fall to the ground without a mighty convulsion—that the agitation must ever be in proportion to the surface agitated—that the passions and errors inseparable from humanity must heighten and swell the confusion, and that perhaps the crimes and ambition of other nations, under the mask of self-defence and humanity, may have contributed not a little to aggravate them,*—may have tended to embitter the spirits and to multiply the evils which they condemn, —to increase the misrule and anarchy which they seek to disembroil, and in the end to endanger their own governments, which by carnage and bloodshed, instead of by peace, improvement, and wise administration, they profess to protect from the contagion of revolution.

"As to the part which bodies of men in England have taken, though it might, in some instances, be imprudent and irregular, yet I see nothing to condemn, or to support the declamation which we daily hear upon the subject. The congratulations† of Englishmen were directed to the fall of corrupt and despotic power in France, and were animated by a wish of a milder and freer government—happier for that country, and safer for this; they were besides addressed to France when she was at peace with England, and when no law was, therefore, broken by the expression of opinion or satisfaction. They were not congratulations on the murders which have since been committed, nor on the desolations which have since overspread so large a portion of the earth, neither were they traitorous to the government of this country. This we may safely take in trust, since not one of them, even in the rage of prosecution, has been brought before a criminal court. For myself, I never joined in any of these addresses, but what I have delivered concerning them is all I have been able to discover; and Government itself, as far as evidence extends, has not been more successful. I would, therefore, recommend it to his Majesty's servants, to attend to the reflections of an eloquent writer,‡ at present high in their confidence and esteem,

* See ante p. 166, and note.

† Mr. Erskine alluded to the addresses sent from several political societies in England to the French National Assembly, which, in the expressions of their warm approbation of the new Government established in France, bordered closely on sedition against the English Government.

‡ Mr. Edmund Burke.

who has admirably exposed the danger and injustice of general accusations. 'This way of proscribing the citizens by denominations and general descriptions, dignified by the name of reason of state, and security for constitutions and commonwealths, is nothing better at bottom than the miserable invention of an ungenerous ambition, which would fain hold the sacred trust of power, without any of the virtues or energies that give a title to it; a receipt of policy, made up of a detestable compound of malice, cowardice, and sloth. They would govern men against their will; but in that Government would be discharged from the exercise of vigilance, providence, and fortitude; and, therefore, that they may sleep on their watch, consent to take some one division of the society into partnership of the tyranny over the rest. But let government, in whatever form it may be, comprehend the whole in its justice, and restrain the suspicious by its vigilance; let it keep watch and ward; let it discover by its sagacity, and punish by its firmness, all delinquency against its power, whenever it exists in the overt acts, and then it will be as safe as God and nature intended it should be. Crimes are the acts of individuals, and not of denominations; and, therefore, arbitrarily to class men under general descriptions, in order to proscribe and punish them in the lump for a presumed delinquency, of which, perhaps, but a part—perhaps, none at all—are guilty, is, indeed, a compendious method, and saves a world of trouble about proof; but such a method, instead of being law, is an act of unnatural rebellion against the legal dominion of reason and justice; and a vice, in any constitution that entertains it, which at one time or other will certainly bring on its ruin.'

"Gentlemen, let us now address ourselves to the cause, disembarrased by foreign considerations—let us examine what the charge upon the record is, and see how it is supported by the proofs—for, unless the whole indictment, or some one count of it, be in form and substance supported by the evidence, the Defendant must be acquitted, however in other respects you may be dissatisfied with his imprudence and indiscretion. The indictment charges, '*That the defendant being a person of an impious, depraved, seditious disposition, and maliciously intending to disturb the peace of the kingdom; to bring our most serene Sovereign into hatred and contempt with all the subjects of the realm, and to excite them to discontent against the Government; he the said defendant, his aforesaid wicked contrivances and intentions to complete, perfect, and render effectual, on the 6th day of November*,' spoke the words imputed to him by the Crown. This is the indictment, and it is drawn with a precision which marks the true principle of English criminal law. It does not merely charge the speaking of the words, leaving the wicked intention to be supplied and collected by necessary and unavoidable inference, because such inference may or may not follow from the words themselves, according to circumstances, which the evidence alone can disclose; it charges therefore the wicked intention as a fact, and as constituting the very essence of the crime, stating, as it must state, to apprise the defendant of the crime alleged against him, the overt act, by which such malicious purpose was displayed, and by which he

sought to render it effectual. No man can be criminal without a criminal intention—*actus non facit reum nisi mens sit rea.* God alone can look into the heart, and man, could he look into it, has no jurisdiction over it, until society is disturbed by its actions; but the criminal mind being the source of all criminality, the law seeks only to punish actions which it can trace to evil disposition—it pities our errors and mistakes—makes allowances for our passions, and scourges only our crimes.

" Gentlemen, my learned friend the Attorney-general, in the conclusion of his address to you, did more than ratify these propositions; for, with a liberality and candour very honourable to himself, and highly advantageous to the public which he represents, he said to you, that if the expressions charged upon the defendant, should turn out in your opinion to be unadvised and unguarded, arising on the sudden, and unconnected with previous bad intention, he should not even insist upon the strictness of the law, whatever it might be, nor ask a verdict, but such as between man and man, acting upon moral and candid feelings, ought to be asked and expected. These were the suggestions of his own just and manly disposition, and he confirmed them by the authority of Mr. Justice Forster, whose works are so deservedly celebrated; but judging of my unfortunate client, not from his own charity, but from the false information of others, he puts a construction upon an expression of this great author, which destroys much of the intended effect of his doctrine—a doctrine which I will myself read again to you, and by the right interpretation of which I desire the defendant may stand or fall. In the passage read to you, Forster says, ' As to mere words, they differ widely from writings in point of real malignity and proper evidence; they are often the effect of mere heat of blood, which in some natures, otherwise well disposed, carrieth the man beyond the bounds of prudence; they are always liable to great misconstruction, from the ignorance or inattention of the hearers, and too often from a motive truly criminal.' Forster afterwards goes on to contrast such loose words, '*not relative to any act or design*,' for so he expresses himself, with ' words of advice and persuasion *in contemplation of some traitorous purpose actually on foot or intended, and in prosecution of it.*' Comparing this rule of judgment with the evidence given, one would have expected a consent to the most favourable judgment—one would have almost considered the quotation as a tacit consent to an acquittal; but Mr. Attorney-general, still looking through the false medium of other men's prejudices, lays hold of the words, '*otherwise well disposed*,' and engrafts upon them this most extraordinary requisition. Show me, he says, that Mr. Frost is *otherwise well disposed.* Let him bring himself within the meaning of Forster, and *then* I consent that he shall have the fullest benefit of his indulgent principle of judgment. Good God, gentlemen, are we in an English court of justice? Are we sitting in judgment before the Chief Justice of England, with the assistance of a jury of Englishmen; and am I in such a presence to be called upon to prove the good disposition of my client, before I can be entitled to the protection of those rules of evidence, which apply

equally to the just and to the unjust, and by which an evil disposition must be proved before it shall even be suspected? I came here to resist and to deny the existence of legitimate and credible proof of disloyalty and disaffection; and am I to be called upon to prove that my client has not been, nor is, disloyal or disaffected? Are we to be deafened with panegyrics upon the English constitution, and yet to be deprived of its first and distinguishing feature, that innocence is to be presumed until guilt be established? Of what avail is that sacred maxim, if, upon the bare assertion and imputation of guilt, a man may be deprived of a rule of evidence, the suggestion of wisdom and humanity, as if the rule applied only to those who need no protection, and who were never accused? If Mr. Frost, by any previous overt acts, by which alone any disposition, good or evil, can be proved, had shown a disposition leading to the offence in question, it was evidence for the Crown. Mr. Wood,* whose learning is unquestionable, undoubtedly thought so, when, with the view of crimination, he asked, where Mr. Frost had been before the time in question, for he is much too correct to have put an irregular and illegal question in a criminal case; I must, therefore, suppose his right to ask it appeared to him quite clear and established, and I have no doubt that it was so. Why, then, did he not go on and follow it up, by asking, what he had done in France—what declarations he had made *there*—or what part he proposed to act *here*, upon his return? The charge upon the record is, that the words were uttered with malice and premeditation; and Mr. Attorney-general properly disclaims a conviction upon any other footing. Surely, then, it was open to the Crown, upon every principle of common sense, to have proved the previous malice by all previous discourses and previous conduct, *connected with the accusation;* and yet, after having wholly and absolutely failed in this most important part of the proof, we are gravely told, that the Crown having failed in the *affirmative*, we must set about establishing the *negative*, for that otherwise we are not within the pale or protection of the very first and paramount principles of the law and government of the country.

"Having disposed of this stumbling-block in the way of sound and indulgent judgment, we may now venture to examine this mighty offence as it is proved by the witnesses for the Crown, supposing the facts neither to have been mis-stated from misapprehension, nor wilfully exaggerated.

"Mr. Frost, the defendant, a gentleman, who upon the evidence stands wholly unimpeached of any design against the public peace, or any indisposition to the constitution of the kingdom, appears to have dined at the tavern over the Percy coffee-house: not even with a company met upon any political occasion, good or evil, but, as has been admitted in the opening, with a society for the encouragement of agriculture, consisting of most reputable and inoffensive persons, neither talking nor thinking about Government, or its concerns; so much for the preface to this dangerous conspiracy. The company did not retire till the bottle had made many merry circles; and it ap-

* One of the counsel for the prosecution.

pears, upon the evidence for the Crown, that Mr. Frost, to say the least, had drunk very freely: but was it then, that, with the evil intention imputed to him, he went into this coffee-house to circulate his opinions, and to give effect to designs he had premeditated? He could not possibly go home without passing through it; for it is proved that there was no other passage into the street from the room where he had dined: but having got there by accident, did he even then stop by design and collect an audience to scatter sedition? So far from it, that Mr. Yatman, the very witness against him, admits that he interrupted him as he passed in silence towards the street, and fastened the subject of France upon *him;* and every word which passed (for the whole is charged upon the very record as a dialogue with this witness), in answer to his entrapping questions, introduced with the familiarity of a very old acquaintance, and in a sort of banter too, which gave a turn to the conversation, which renders it ridiculous as well as wicked, to convert it into a serious plan of mischief:—'Well,' says Mr. Yatman, 'well, Mr. Equality, so you have been in France—when did you arrive? I suppose you are for equality, and no kings?' 'O yes,' says Mr. Frost, 'certainly I am for equality; I am for no kings.' Now, beyond all question, when this answer was made, whether in jest or in earnest, whether when drunk or sober, it neither had, nor could have the remotest relation to England or its Government. France had just abolished its new constitution of monarchy, and set up a republic—she was at that moment divided and in civil confusion on the subject; the question, therefore, and the answer, as they applied to France, were sensible and relevant; but to England or to English affairs they had not (except in the ensnaring sequel) the remotest application. Had Yatman, therefore, ended here, the conversation would have ended, and Mr. Frost would have been the next moment in the street; but still the question is forced upon him, and he is asked—'What! no kings in England?' although his first answer had no connexion with England; the question, therefore, was self-evidently a snare; to which he answered, 'No kings in England:' which seemed to be all that was wanted, for in a moment everything was confusion and uproar. Mr. Frost, who had neither delivered nor meant to deliver any serious opinion concerning Government, and finding himself injuriously set upon, wished, as was most natural, to explain himself, by stating to those around him what I have been just stating to you; but all in vain; they were in pursuit of the immortal fame of the very business we are engaged in at this moment, and were resolved to hold their advantage: his voice was immediately drowned by the clamours of insult and brutality—he was baited on all sides like a bull, and left the coffee-house without the possibility of being heard either in explanation or defence. An indictment was immediately preferred against him, and from that moment the public ear has been grossly and wickedly abused upon the subject—his character shamefully calumniated, and his cause prejudged before the day of trial.

"Gentlemen, it is impossible for me to form any other judgment of the impression which such a proceeding altogether is likely to make upon your minds, but from that which it makes upon my own. In the first place, is

society to be protected by the breach of those confidences, and in the destruction of that security and tranquillity, which constitute its very essence everywhere, but which, till of late, most emphatically characterised the life of an Englishman? Is Government to derive dignity and safety by means which render it impossible for any man who has the least spark of honour to step forward to serve it? Is the time come when obedience to the law and correctness of conduct are not a sufficient protection to the subject, but that he must measure his steps, select his expressions, and adjust his very looks in the most common and private intercourses of life? Must an English gentleman in future fill his wine by a measure, lest, in the openness of his soul, and whilst believing his neighbours are joining with him in that happy relaxation and freedom of thought, which is the prime blessing of life, he should find his character blasted, and his person in a prison? Does any man put such constraint upon himself in the most private moment of his life, that he would be contented to have his loosest and lightest words recorded, and set in array against him in a court of justice? Thank God, the world lives very differently, or it would not be worth living in. There are moments when jarring opinions may be given without inconsistency—when Truth herself may be sported with without the breach of veracity — and where well-imagined nonsense is not only superior to, but is the very index to wit and wisdom. I might safely assert,—taking, too, for the standard of my assertion the most honourably correct and enlightened societies in the kingdom,—that if malignant spies were properly posted, scarcely a dinner would end without a duel and an indictment.

"When I came down this morning, and found, contrary to my expectation, that we were to be stuffed into this miserable hole in the wall,* to consume our constitutions:—suppose I had muttered along through the gloomy passages—'What, is this cursed trial of Hastings going on again? Are we to have no respite?—Are we to die of the asthma in this damned corner? I wish to God that the roof would come down and abate the impeachment, Lords, Commons, and all together.' Such a *wish*, proceeding from the mind, would be desperate wickedness, and the serious expression of it a high and criminal contempt of Parliament. Perhaps the bare utterance of such words, even without meaning, would be irreverent and foolish;—but still, if such expressions had been gravely imputed to me as the result of a malignant mind, seeking the destruction of the Lords and Commons of England, how would they have been treated in the House of Commons, on a motion for my expulsion? How! The witness would have been laughed out of the House before he had half finished his evidence, and would have been voted to be too great a blockhead to deserve a worse character. Many things are indeed wrong and reprehensible, that neither do nor can become the objects of criminal justice, because the happiness and security of social life, which are the very end and object of all law and jus-

* The King's Bench sat in the small Court of Common Pleas.

tice, forbid the communication of them;—because the spirit of a gentleman, which is the most refined morality, either shuts men's ears against what should not be heard, or closes their lips with the sacred seal of honour.

"This tacit but well-understood and delightful compact of social life is perfectly consistent with its safety. The security of free governments, and the unsuspecting confidence of every man who lives under them, are not only compatible, but inseparable. It is easy to distinguish where the public duty calls for the violation of the private one;—criminal intention, but not indecent levities,—not even grave opinions unconnected with conduct, are to be exposed to the magistrate; and when men, which happens but seldom, without the honour or the sense to make the due distinctions, force complaints upon governments, which they can neither approve of nor refuse to act upon —it becomes the office of juries,—as it is yours to-day,—to draw the true line in their judgments, measuring men's conduct by the safe standards of human life and experience.

"Gentlemen, the misery and disgrace of society, under the lash of informers, running before the law and hunting men through the privacies of domestic life, is described by a celebrated speaker,* with such force and beauty of eloquence, that I will close my observations on this part of the subject, by repeating what cannot, I am persuaded, be uttered amongst Englishmen without sinking deep into their hearts: 'A mercenary informer knows no distinction. Under such a system, the obnoxious people are slaves, not only to the government, but they live at the mercy of every individual; they are at once the slaves of the whole community and of every part of it; and the worst and most unmerciful men are those on whose goodness they most depend. In this situation men not only shrink from the frowns of a stern magistrate, but are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse, and in social habitudes. The blood of wholesome kindred is infected. Their tables and beds are surrounded with snares. All the means given by Providence to make life safe and comfortable are perverted into instruments of terror and torment. This species of universal subserviency, that makes the very servant who waits behind your chair, the arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mind which alone can make us what we ought to be, that I vow to God, I would sooner bring myself to put a man to immediate death for opinions I disliked, and so to get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the jail distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction, corrupted himself, and corrupting all about him.'

"If these sentiments apply so justly to the reprobation of persecution for opinions—even for opinions which the laws, however absurdly, inhibit—for opinions though certainly and maturely entertained—though publicly professed, and though followed up by corresponding conduct; how irresistibly

* Mr. Edmund Burke.

do they devote to contempt and execration all eaves-dropping attacks upon loose conversations, casual or convivial, more especially when proceeding from persons conforming to all the religious and civil institutions of the state, unsupported by general and avowed profession, and not merely unconnected with conduct, but scarcely attended with recollection or consciousness! Such a vexatious system of inquisition, the disturber of household peace, began and ended with the Star-chamber; the venerable law of England never knew it; her noble, dignified, and humane policy soars above the little irregularities of our lives, and disdains to enter our closets without a warrant founded upon complaint. Constructed by man to regulate human infirmities, and not by God to guard the purity of angels, it leaves to us our thoughts, our opinions, and our conversations, and punishes only overt acts of contempt and disobedience to her authority.

"Gentlemen, this is not the specious phrase of an advocate for his client; it is not even my exposition of the spirit of our constitution; but it is the phrase and letter of the law itself. In the most critical conjunctures of our history, when Government was legislating for its own existence and continuance, it never overstepped this wise moderation. To give stability to establishments, it occasionally bridled opinions concerning them, but its punishments, though sanguinary, laid no snares for thoughtless life, and took no man by surprise.

"Of this the act of Queen Anne,* which made it high treason to deny the right of Parliament to alter the succession, is a striking example. The hereditary descent of the Crown had been recently broken at the revolution by a minority of the nation, with the aid of a foreign force, and a new inheritance had been created by the authority of the new establishment, which had but just established itself. Queen Anne's title and the peaceable settlement of the kingdom under it, depended wholly upon the constitutional power of Parliament to make this change; the superstitions of the world, and reverence for antiquity, which deserves a better name, were against this power and the use which had been made of it; the dethroned King of England was living in hostile state at our very doors, supported by a powerful monarch at the head of a rival nation—and our own kingdom itself full of factious plots and conspiracies, which soon after showed themselves in open rebellion.

"If ever, therefore, there was a season when a narrow jealousy could have been excusable in a government—if ever there was a time when the sacrifice of some private liberty to common security would have been prudent in a people, it was at such a conjuncture; yet mark the reserve of the Crown and the prudence of our ancestors in the wording of the statute. Although the denial of the right of Parliament to alter the succession was tantamount to the denial of all legitimate authority in the kingdom, and might be considered as a sort of abjuration to the laws, yet the statute looked at the nature

* Sixth Anne, c. 7.

of man and to the private security of individuals in society, while it sought to support the public society itself; it did not, therefore, dog men into taverns and coffee-houses, nor lurk for them at corners, nor watch for them in their domestic enjoyments. The act provides, 'That every person who should maliciously, advisedly, and directly, by *writing or printing*, affirm, that the Queen was not the rightful Queen of these realms, or that the Pretender had any right or title to the crown, or that any other person had any right or title, otherwise than according to the acts passed since the Revolution for settling the succession, or that the legislature hath not sufficient authority to make laws for limiting the succession, should be guilty of high treason, and suffer as a traitor;' and then enacts, 'That if any person shall *maliciously*, and *directly*, by *preaching*, *teaching*, or *advised speaking*, declare and maintain the same, he shall incur the penalties of a *præmunire*.'

"'I will make a short observation or two,' says Forster, 'on the act. First, the positions condemned by them had as direct a tendency to involve these nations in the miseries of an intestine war, to incite her Majesty's subjects to withdraw their allegiance from her, and to deprive her of her crown and royal dignity, as any general doctrine, any declaration not relative to actions or designs, could possibly have; and yet in the case of bare words, positions of this dangerous tendency, though maintained maliciously, advisedly, and directly, and even in the solemnities of preaching and teaching, are not considered as overt acts of treason.

"'Secondly. In no case can a man be *argued* into the penalties of the act by inferences and conclusions drawn from what he hath affirmed; the criminal position must be *directly* maintained, to bring him within the compass of the act.

"'Thirdly. Nor will every rash, hasty, or unguarded expression, owing perhaps to natural warmth, or thrown out in the heat of disputation, render any person criminal within the act; the criminal doctrine must be maintained *maliciously and advisedly*.'

"He afterwards adds, 'Seditious writings are permanent things, and if published, they scatter the poison far and wide. They are acts of deliberation, capable of satisfactory proof, and not ordinarily liable to misconstruction; at least they are submitted to the judgment of the court, naked and undisguised, as they came out of the author's hands. Words are transient and fleeting as the wind; the poison they scatter is, at the worst, confined to the narrow circle of a few hearers; they are frequently the effect of a sudden transport, easily misunderstood, and often mis-reported.'

"Gentlemen, these distinctions, like all the dictates of sound policy, are as obvious to reason, as they are salutary in practice. What a man writes that is criminal and pernicious, and disseminates when written, is conclusive of his purpose; he manifestly must have deliberated on what he wrote, and the distribution is also an act of deliberation; *intention* in such cases is not, therefore, matter of legal proof, but of reasonable inference, unless the accused, by proof on his side, can rebut what reason must otherwise infer: since he who writes to others, undoubtedly seeks to bring over other minds

to assimilate with his own. So he who advisedly speaks to others upon momentous subjects, may be presumed to have the same intention, but yet so frail is memory—so imperfect are our natures—so dangerous would it be to place *words*, which, to use the language of Forster, are transient and fleeting, upon a footing with deliberate *conduct*, that the criminating letter of the law itself interposes the check and excludes the danger of a rash judgment, by curiously selecting from the whole circle of language an expression which cannot be mistaken; for nothing said upon the sudden without the evidence of a context, and sequel in thought or conduct, can in common sense deserve the title of *advised speaking*. Try the matter before you upon the principle of the statute of Queen Anne, and examine it with the caution of Forster.

"Suppose, then, that instead of the words imputed by this record, the defendant, coming half drunk through this coffee-house had, in his conversation with Yatman denied the right of Parliament to alter the succession. Could he have been adjudged to suffer death for high treason under the statute of Queen Anne? Reason and humanity equally revolt at the position, and yet the decision asked from you is precisely that decision; for if you could not have found *advised speaking* to bring it within that statute of treason, so neither can you find it as the necessary evidence of the intention charged upon the present indictment, which intention constitutes the misdemeanor.

"If anything were wanting to confirm these principles of the law and the commentaries of its ablest judges, as applicable to words—they are in another way emphatically furnished by the instance before us; for in the zeal of these coffee-house politicians to preserve the defendant's expressions, they were instantly to be put down in writing, and signed by the persons present; yet the paper read by Colonel Bullock,* and written, as he tells you, at the very moment with that intention, contains hardly a single word, from the beginning to the end of it, either in meaning or expression, the same as has been related by the witnesses; it sinks in the first place the questions put to the defendant, and the whole dialogue, which is the best clue to the business, and records, '*that Mr. Frost came into the coffee-house, and declared*,' an expression which he never used, and which wears the colour of deliberation, '*that he wished to see equality prevail in this country*,' another expression, which it is now agreed on all hands he never uttered, and which conveys a very different idea from saying in answer to an impertinent or taunting question, 'Oh yes, I am for equality.' I impute nothing at all to Colonel Bullock, who did not appear to me to give his evidence unfairly—he read his paper as he wrote; but this is the very strength of my

* The paper was as follows:—"Percy Coffee-house, 6th November, 1792.—We, the undermentioned, do hereby certify that at about 10 o'clock this evening, Mr. John Frost came into this coffee-room, and did then and in our presence openly declare that he wished to see equality prevail in this country, and no king, in a loud and factious way; and upon being asked whether he meant that there should be no king in this country, he answered 'Yes.'" The paper was not signed.

observation : for suppose the case had not come for months to trial, the other witnesses (and honestly too) might have let their memories lean on the written evidence, and thus you would have been trying, and perhaps condemning the defendant for speaking words, stripped too of their explanatory concomitants, which it stands confessed at this moment were never spoken at all.

" Gentlemen, the disposition which has of late prevailed to depart from the wise moderation of our laws and constitution, under the pretext, or from the zeal of preserving them, and which has been the parent of so many prosecutions, is an awful monument of human weakness. These associators to prosecute, who keep watch of late upon our words and upon our looks, are associated, it seems, to preserve our excellent constitution from the contagion of France, where an arbitrary and tyrannous democracy, under the colour of popular freedom, destroys all the securities and blessings of life—but how does it destroy them ? How, but by the very means that these new partners of executive power would themselves employ, if we would let them —by inflicting, from a mistaken and barbarous state necessity, the severest punishments for offences never defined by the law—by inflicting them upon suspicion instead of evidence, and in the blind, furious, and indiscriminate zeal of persecution, instead of by the administration of a sober and impartial jurisprudence. Subtracting the horrors of invading armies which France cannot help, what other mischief has she inflicted upon herself ? From what has she suffered but from this undisciplined and cruel spirit of accusation and rash judgment ? A spirit that will look at nothing dispassionately, and which, though proceeding from a zeal and enthusiasm for the most part honest and sincere, is nevertheless as pernicious as the wicked fury of demons, when it is loosened from the sober dominion of slow and deliberate justice. What is it that has lately united all hearts and voices in lamentation ? What but these judicial executions, which we have a right to style murders, when we see the axe falling, and the prison closing upon the genuine expressions of the inoffensive heart—sometimes for private letters to friends, unconnected with conduct or intention—sometimes for momentary exclamations in favour of royalty, or some other denomination of government different from that which is established.

" These are the miseries of France, the unhappy attendants upon revolution ; and united as we all are in deploring them, upon what principle of common sense shall we vex and terrify the subjects of our own country in the very bosom of peace, and disgust them with the government, which we wish them to cherish, by unusual, irritating, and degrading prosecutions ?

" Indeed, I am very sorry to say that we *hear* of late too much of the excellence of the British government, and *feel* but too little of its benefits. They, too, who pronounce its panegyrics, are those who alone prevent the entire public from acceding to them ; the eulogium comes from a suspected quarter, when it is pronounced by persons enjoying every honour from the Crown, and treating the people upon all occasions with suspicion and con-

tempt. The three estates of the kingdom are co-ordinate, all alike representing the dignity, and jointly executing the authority of the nation; yet all our loyalty seems to be wasted upon one of them. How happens it else, that we are so exquisitely sensible, so tremblingly alive to every attack upon the Crown, or the nobles that surround it, yet so completely careless of what regards the once respected and awful Commons of Great Britain?

"If Mr. Frost had gone into every coffee-house, from Charing-cross to the Exchange, lamenting the dangers of popular government, reprobating the peevishness of opposition in parliament, and wishing in the most advised terms, that we could look up to the throne and its excellent ministers alone for quiet and comfortable government, do you think that we should have had an indictment? I ask pardon for the supposition; I can discover that you are laughing at me for its absurdity. Indeed, I might ask you whether it is not the notorious language of the highest men, in and out of Parliament, to justify the alienation of the popular part of the Government from the spirit and principle of its trust and office, and to prognosticate the very ruin and downfall of England, from a free and uncorrupted representation of the great body of the people? I solemnly declare to you, that I think the whole of this system leads inevitably to the dangers we seek to avert; it divides the higher and the lower classes of the nation into adverse parties, instead of uniting and compounding them into one harmonious whole; it embitters the people against authority, which, when they are made to feel and know is but their own security, they must, from the very nature of man, unite to support and cherish. I do not believe that there is any set of men to be named in England—I might say, that I do not know an individual, who seriously wishes to touch the Crown, or any branch of our excellent constitution; and when we hear peevish and disrespectful expressions concerning any of its functions, depend upon it, it proceeds from some practical variance between its theory and its practice. These variances are the fatal springs of disorder and disgust; they lost America, and in that unfortunate separation laid the foundation of all that we have to fear; yet, instead of treading back our steps, we seek recovery in the system which brought us into peril. Let Government in England always take care to make its administration correspond with the true spirit of our genuine constitution, and nothing will ever endanger it. Let it seek to maintain its corruptions by severity and coercion, and neither laws nor arms will support it. These are my sentiments; and I advise you, however unpopular they may be at this moment, to consider them before you repel them.

"If the defendant, amongst others, has judged too lightly of the advantages of our government, reform his errors by a beneficial experience of them; above all, let him feel its excellence to-day in its beneficence; let him compare in his trial the condition of an English subject with that of a citizen of France, which he is supposed in theory to prefer. These are the true criterions by which, in the long run, individuals and nations become affectionate to governments, or revolt against them; for men are neither to be talked nor written into the belief of happiness and security, when they do not practi-

cally feel them, nor talked or written out of them, when they are in the full enjoyment of their blessings: but if you condemn the defendant upon this sort of evidence, depend upon it, he must have his adherents, and, as far as that goes, I must be one of them.

"Gentlemen, I will detain you no longer, being satisfied to leave you, as conscientious men, to judge the defendant as you yourselves would be judged; and if there be any amongst you, who can say to the rest, that he has no weak or inconsiderate moments—that all his words and actions, even in the most thoughtless passages of his life, are fit for the inspection of God and man, he will be the fittest person to take the lead in a judgment of 'guilty,' and the properest foreman to deliver it with good faith and firmness to the court.

"I know the privilege that belongs to the Attorney-general to reply to all that has been said; but, perhaps, as I have called no witnesses, he may think it a privilege to be waived. It is, however, pleasant to recollect, that if it should be exercised, even with his superior talents, his honour and candour will guard it from abuse."

The Attorney-general having exercised his privilege of reply, Lord Kenyon summed up; and the Jury, after a consultation of an hour and a half, returned a verdict of "Guilty."

Speech in defence of Thomas Hardy, indicted for high treason, 1st November, 1794.

The circumstances which led to this indictment have been already stated ante p. 191. The trial commenced on Tuesday, the 28th October; and the opening speech of the Attorney-general (Sir John Scott, afterwards Lord Eldon) occupied upwards of seven hours. The evidence for the Crown was not concluded till the Saturday following, when Mr. Erskine, who was assisted by Mr. Gibbs, after an adjournment of the Court for a few hours to allow time for arranging the evidence, delivered the following speech in defence of his client. His arguments in this speech against constructive treason are considered even superior to those he brought forward on the trial of Lord George Gordon, and are regarded by some of his admirers, as the most substantial monument of his genius:—

"Gentlemen of the Jury,

"Before I proceed to the performance of the momentous duty which is at length cast upon me, I desire in the first place to return my thanks to the Judges, for the indulgence I have received in the opportunity of addressing you at this later period of the day than the ordinary sitting of the Court, when I have had the refreshment which nature but too much required, and a few hours' retirement, to arrange a little in my mind that immense matter, the result of which I must now endeavour to lay before you. I have to thank *you* also, Gentlemen, for the very condescending and obliging manner in which

you so readily consented to this accommodation; the Court could only speak for itself, referring me to *you*, whose rest and comforts had been so long interrupted. I shall always remember your kindness.

"Before I advance to the regular consideration of this great cause, either as it regards the evidence or the law, I wish first to put aside all that I find in the speech of my learned friend, the Attorney-general, which is either collateral to the merits, or in which I can agree with him. First, then, IN THE NAME OF THE PRISONER, and speaking *his* sentiments, which are well known to be my own also, I concur in the eulogium which you have heard upon the constitution of our wise forefathers. But before this eulogium can have any just or useful application, we ought to reflect upon what it is which entitles this constitution to the praise so justly bestowed upon it. To say nothing at present of its most essential excellence, or rather the very soul of it, viz., the share the people ought to have in their government, by a pure representation, for the assertion of which the prisoner stands arraigned as a traitor before you,—what is it that distinguishes the government of England from the most despotic monarchies? What—but the security which the subject enjoys in a trial and judgment by his equals; rendered doubly secure as being part of a system of law which no expediency can warp, and which no power can abuse with impunity?

"The Attorney-general's second preliminary observation, I equally agree to. I anxiously wish with him that you shall bear in memory the anarchy which is desolating France. Before I sit down, I may, perhaps, in my turn, have occasion to reflect a little upon its probable causes; but, waiting a season for such reflections, let us first consider what the evil is which has been so feelingly lamented, as having fallen on that unhappy country. It is, that under the dominion of a barbarous state necessity, every protection of law is abrogated and destroyed; it is, that no man can say, under such a system of alarm and terror, that his life, his liberty, his reputation, or any one human blessing, is secure to him for a moment; it is, that, if accused of federalism, or moderatism, or incivism, or of whatever else the changing fashions and factions of the day shall have lifted up into high treason against the State, he must see his friends, his family, and the light of heaven, no more: the accusation and the sentence being the same, following one another as the thunder pursues the flash. Such has been the state of England—such is the state of France; and how, then, since they are introduced to you for application, ought they in reason and sobriety to be applied? If this prosecution has been commenced (as is asserted) to avert from Great Britain the calamities incident to civil confusion, leading in its issues to the deplorable condition of France; I call upon you, gentlemen, to avert such calamity from falling upon my client, and, through his side, upon yourselves and upon our country. Let not him suffer under vague expositions of tyrannical laws, more tyrannically executed. Let not him be hurried away to pre-doomed execution, from an honest enthusiasm for the public safety. I ask for him a trial by this applauded constitution of our country; I call

upon you to administer the law to him, according to our own wholesome institutions, by its strict and rigid letter: however you may eventually disapprove of any part of his conduct, or, viewing it through a false medium, may think it even wicked, I claim for him, as a subject of England, that the law shall decide upon its criminal denomination: I protest, in his name, against all appeals to speculations concerning consequences, when the law commands us to look only to intentions. If the State be threatened with evils, let Parliament administer a prospective remedy, but let the prisoner hold his life under the law.

"Gentlemen, I ask this solemnly of the Court, whose justice I am persuaded will afford it to me; I ask it more emphatically of you, the Jury, who are called upon your oaths to make a true deliverance of your countryman from this charge: but lastly, and chiefly, I implore it of Him in whose hands are all the issues of life, whose humane and merciful eye expands itself over all the transactions of mankind; at whose command nations rise, and fall, and are regenerated; without whom not a sparrow falleth to the ground; I implore it of God himself, that He will fill your minds with the spirit of justice and of truth; so that you may be able to find your way through the labyrinth of matter laid before you, a labyrinth in which no man's life was ever before involved, in the annals of British trial; nor, indeed, in the whole history of human justice or injustice.

"Gentlemen, the first thing in order is, to look at the indictment itself; of the whole of which, or of some integral part, the prisoner must be found guilty, or be wholly discharged from guilt.

"The indictment charges that the prisoners did maliciously and traitorously conspire, compass, and imagine, to bring and put our Lord the King to death; and that to fulfil, perfect, and bring to effect their most evil and wicked purpose (that is to say, of bringing and putting the King to death), 'they met, conspired, consulted, and agreed amongst themselves, and other false traitors unknown, to cause and procure a convention to be assembled within the kingdom, *with intent* '—(I am reading the very words of the indictment, which I entreat you to follow in the notes you have been taking with such honest perseverance)—'*with intent, and in order* that the persons so assembled at such convention, should and might traitorously, and in defiance of the authority and against the will of Parliament, subvert and alter, and cause to be subverted and altered, the legislature, rule, and government of the country; and to depose the King from the royal state, title, power, and government thereof.' This is the first and great leading overt act in the indictment; and you observe that it is not charged as being treason substantively and in itself, but only as it is committed in pursuance of the treason against the King's person, antecedently imputed; for the charge is not, that the prisoners conspired to assemble a convention to *depose* the King, but that they conspired and compassed his *death;* and that, in order to accomplish that wicked and detestable purpose, (*i. e.*, in order to fulfil the traitorous intention of the mind against his *life*,) they conspired to assemble a conven-

tion, with a view to depose him. The same observation applies alike to all the other counts or overt acts upon the record, which manifestly, indeed, lean upon the establishment of the first for their support; because they charge the publication of different writings, and the provision of arms, not as distinct offences, but as acts done to excite to the assembling of the same convention, and to maintain it when assembled; but, above all, and which must never be forgotten, because they also uniformly charge these different acts as committed in fulfilment of the same traitorous purpose, TO BRING THE KING TO DEATH. You will, therefore, have three distinct matters for consideration, upon this trial: *First*, What share (if any) the prisoner had, in concert with others, in assembling *any* convention or meeting of subjects within this kingdom: *Secondly*, What were the acts to be done by this convention, when assembled: and *Thirdly*, What was the view, purpose, and intention of those who projected its existence. This third consideration, indeed, comprehends, or rather precedes and swallows up the other two; because, before it can be material to decide upon the views of the convention, as pointed to the subversion of the rule and order of the King's political authority (even if such views could be ascribed to it, and brought home even personally to the prisoner), we shall have to examine whether that criminal conspiracy against the established order of the community, was hatched and engendered by a wicked contemplation to destroy the *natural life and person* of the King; and whether the acts charged and established by the evidence, were done in pursuance and in fulfilment of the same traitorous purpose.

"Gentlemen, this view of the subject is not only correct, but self-evident; the subversion of the King's political government, and all conspiracies to subvert it, are crimes of great magnitude and enormity, which the law is open to punish; but neither of them are the crimes before you. The prisoner is not charged with a conspiracy against the King's political government, but against his natural life. He is not accused of having merely taken steps to depose him from his authority, but with having done so *with the intention to bring him to death*. It is the act with the *specific intention*, and not the act alone, which constitutes the charge. The act of conspiring to depose the King, may, indeed, be evidence, according to circumstances, of an intention to destroy his natural existence; but never, as a proposition of law, can constitute the intention itself. Where an act is done in pursuance of an intention, surely the intention must first exist; a man cannot do a thing in fulfilment of an intention, unless his mind first conceives that intention. The doing an act, or the pursuit of a system of conduct, which leads in probable consequences to the death of the King, may legally (if any such be before you) affect the consideration of the traitorous purpose charged by the record, and I am not afraid of trusting you with the evidence. How far any given act, or course of acting, independently of intention, may lead probably or inevitably to any natural or political consequence, is what we have no concern with; these may be curious questions of casuistry or

politics; but it is wickedness and folly to declare that consequences unconnected even with intention or consciousness, shall be synonymous in law with the traitorous mind, although the traitorous mind alone is arraigned, as constituting the crime.

"Gentlemen, the first question consequently for consideration, and to which I must, therefore, earnestly implore the attention of the Court, is this—WHAT IS THE LAW UPON THIS MOMENTOUS SUBJECT? And recollecting that I am invested with no authority, I shall not presume to offer you anything of my own; nothing shall proceed from myself upon this part of the inquiry, but that which is merely introductory, and necessary to the understanding of the authorities on which I mean to rely for the establishment of doctrines, not less essential to the general liberties of England, than to the particular consideration which constitutes our present duty.

"First, then, I maintain, that that branch of the statute 25th of Edward the Third, which declares it to be high treason '*when a man doth compass or imagine the death of the King, of his lady the Queen, or of his eldest son and heir*,' was intended to guard, by a higher sanction than felony, the NATURAL LIVES of the King, Queen, and Prince; and that no act, therefore (either inchoate or consummate), of resistance to, or rebellion against, the King's regal capacity, amounts to high treason of compassing his death, unless where they can be charged upon the indictment, and proved to the satisfaction of the Jury at the trial, as overt acts, committed by the prisoner, in fulfilment of a traitorous intention to destroy the King's natural life.

Secondly, that the compassing the King's death, or, in other words, the traitorous intention to destroy his *natural existence*, is the treason, and not the overt acts, which are only laid as manifestations of the traitorous intention, or, in other words, as evidence competent to be left to a Jury to prove it; and that no conspiracy to levy war against the King, nor any conspiracy against his regal character or capacity, is a good overt act of compassing his death, unless some force be exerted, or in contemplation, against the King's person: and that such force, so exerted or in contemplation, is not substantively the treason of compassing, but only competent in point of law to establish it, if the Jury, by the verdict of Guilty, draw that conclusion of fact from the evidence of the overt act.

Thirdly, that the charge in the indictment, of compassing the King's death, is not laid as legal inducement or introduction, to follow as a legal inference from the establishment of the overt act, but is laid as an averment of A FACT; and, as such, the very gist of the indictment, to be affirmed or negatived by the verdict of Guilty or Not Guilty. It will not (I am persuaded) be suspected by the Attorney-general, or by the Court, that I am about to support these doctrines by opposing my own judgment to the authoritative writings of the venerable and excellent Lord Hale, whose memory will live in this country, and throughout the enlightened world, as long as the administration of pure justice shall exist; neither do I wish to oppose anything which is to be found in the other learned authorities principally relied upon

by the Crown, because all my positions are perfectly consistent with a right interpretation of them; and because, even were it otherwise, I could not expect successfully to oppose them by any reasonings of my own, which can have no weight, but as they shall be found at once consistent with acknowledged authorities, and with the established principles of the English law. I can do this with the greater security, because my respectable and learned friend, the Attorney-general, has not cited cases which have been the disgrace of this country in former times, nor asked you to sanction by your judgment those bloody murders, which are recorded by them as acts of English justice; but, as might be expected of an honourable man, his expositions of the law (though I think them frequently erroneous) are drawn from the same sources, which I look up to for doctrines so very different. I find, indeed, throughout the whole range of authorities (I mean those which the Attorney-general has properly considered as deserving that name and character) very little contradiction; for, as far as I can discover, much more entanglement has arisen from now and then a tripping in the expression, than from any difference of sentiment amongst eminent and virtuous Judges, who have either examined or sat in judgment upon this momentous subject.

"Gentlemen, before I pursue the course I have prescribed to myself, I desire most distinctly to be understood, that in my own judgment, the most successful argument, that a conspiracy to depose the King does not necessarily establish the treason charged upon this record, is totally beside any possible judgment that you can have to form upon the evidence before you; since, throughout the whole volumes that have been read, I can trace nothing that even points to the imagination of such a conspiracy; and, consequently, the doctrines of Coke, Hale, and Forster, on the subject of High Treason, might equally be detailed in any other trial that has ever been proceeded upon in this place. But, Gentlemen, I stand in a fearful and delicate situation. As a supposed attack upon the King's civil authority has been transmuted, by construction, into a murderous conspiracy against his natural person, in the same manner, and by the same arguments, a conspiracy to overturn that civil authority, by direct force, has again been assimilated, by further construction, to a design to undermine monarchy by changes wrought through public opinion, enlarging gradually into universal will; so that I can admit no false proposition, however wide I may think it of rational application. For as there is a constructive *compassing*, so also there is a constructive *deposing;* and I cannot, therefore, possibly know what either of them is separately, nor how the one may be argued to involve the other. There are, besides, many prisoners, whose cases are behind, and whose lives may be involved in your present deliberation; their names have been already stigmatised, and their conduct arraigned in the evidence you have heard, as a part of the conspiracy. It is these considerations which drive me into so large a field of argument, because, by sufficiently ascertaining the law in the outset, they who are yet looking up to it for protection, may not be brought into peril.

"Gentlemen, I now proceed to establish, that a compassing of the death of the King, within the twenty-fifth of Edward the Third, which is the charge against the prisoner, consists in a traitorous intention against his NATURAL LIFE; and that nothing short of your firm belief of that detestable intention, from overt acts which you find him to have committed, can justify his conviction. That I may keep my word with you in building my argument upon nothing of my own, I hope my friend Mr. Gibbs will have the goodness to call me back, if he finds me wandering from my engagement; that I may proceed step by step upon the most venerable and acknowledged authorities of the law.

"In this process I shall begin with Lord Hale, who opens this important subject by stating the reason of passing the statute of the twenty-fifth of Edward the Third, on which the indictment is founded. Lord Hale says, in his Pleas of the Crown (vol. i., page 82), that 'at common law there was a great latitude used in raising offences to the crime and punishment of treason, by way of interpretation and arbitrary *construction*, which brought in great uncertainty and confusion. Thus accroaching, *i. e.*, *encroaching on royal power* was an usual charge of treason anciently, though a very uncertain charge; so that no man could tell what it was, or what defence to make to it.' Lord Hale then goes on to state various instances of vexation and cruelty, and concludes with this striking observation: 'By these and the like instances that might be given, it appears how *arbitrary and uncertain* the law of treason was before the statute of 25th of Edward the Third, whereby it came to pass, that almost every offence that was, or seemed to be, a breach of the faith and allegiance due to the King, was by *construction*, *consequence*, and *interpretation*, raised into the offence of high treason.' This is the lamentation of the great Hale upon the state of this country previous to the passing of the statute, which, he says, was passed as a remedial law, to put an end to them; and Lord Coke, considering it in the same light, says, in his third Institute, page 2, 'The Parliament which passed this statute was called (as it well deserved) *Parliamentum Benedictum;* and the like honour was given to it by the different statutes which from time to time brought back treasons to its standard, all agreeing in magnifying and extolling this blessed Act.' Now, this statute, which has obtained the panegyric of these great men, whom the Chief Justice in his charge looked up to for light and for example, and whom the Attorney-general takes also for his guide, would very little have deserved the high eulogium bestowed upon it, if, though avowedly passed to destroy uncertainty in criminal justice, and to beat down the arbitrary constructions of Judges, lamented by Hale as disfiguring and dishonouring the law, it had, nevertheless, been so worded as to give birth to new constructions and uncertainties, instead of destroying the old ones. It would but ill have entitled itself to the demomination of a blessed statute, if it had not, in its enacting letter, which professed to remove doubts, and to ascertain the law, made use of expressions the best known and understood; and it will be found, accordingly, that it cautiously did so. It will be found, that, in selecting the expression of COMPASSING THE DEATH, it employed a

term of the most fixed and appropriate signification in the language of English law, which not only no judge or counsel, but which no attorney or attorney's clerk, could misunderstand; because, in former ages, before the statute, compassing the death of *any man* had been a felony, and what had amounted to such compassing, had been settled in a thousand instances. To establish this, and to show also, by no reasoning of mine, that the term 'compassing the death' was intended by the statute, when applied to the King, as high treason, to have the same signification as it had obtained in the law when applied to the subject as a felony, I shall refer to Mr. Justice Forster, and even to a passage cited by the Attorney-general himself, which speaks so unequivocally and unanswerably for itself, as to mock all commentary. 'The ancient writers,' says Forster, 'in treating of felonious homicide, considered the felonious *intention* manifested by plain facts, in the same light, in point of guilt, as homicide itself. The rule was, *voluntas reputatur pro facto;* and while this rule prevailed, the nature of the offence was expressed by the term *compassing the death*. This rule has been long laid aside as too rigorous in the case of common persons; but in the case of the King, Queen, and Prince, the statute of treasons has, with great propriety, *retained* it in its full extent and vigour; and, in describing the offence, has likewise *retained* the ancient mode of expression, when a man doth compass or imagine the death of our Lord the King, &c., and thereof be upon sufficient proof, provablement, attainted of open deed, by people of his condition: the words of the statute descriptive of the offence, must, therefore, be strictly pursued in every indictment for this species of treason. It must charge that the defendant did traitorously compass and imagine the King's death; and then go on and charge the several acts made use of by the prisoner to effectuate his traitorous purpose; for *the compassing the King's death* is the treason, and the overt acts are charged as the means made use of to effectuate the intentions and imaginations of the heart; and, therefore, in the case of the regicides, the indictment charged that they did traitorously compass and imagine the death of the King, and the cutting off the head was laid as the overt act, and the person who was supposed to have given the mortal stroke was convicted on the same indictment.'

"This concluding instance, though at first view it may appear ridiculous, is well selected as an illustration; because, though in that case there could be no possible doubt of the intention, since the act of a deliberate execution involves, in common sense, the intention to destroy life, yet still the anomaly of the offence, which exists wholly in the INTENTION, and not in the overt act, required the preservation of the form of the indictment. It is surely impossible to read this commentary of Forster, without seeing the true purpose of the statute: the common law had anciently considered, even in the case of a fellow-subject, the malignant intention to destroy, as equivalent to the act itself; but that noble spirit of humanity which pervades the whole system of our jurisprudence, had, before the time of King Edward the Third, eat out and destroyed this rule, too rigorous in its general application;

but, as Forster truly observes in the passage I have read, 'This rule, too rigorous in the case of the subject, the state of treasons retained in the case of the King, and retained also the very expression used by the law when compassing the death of a subject was felony.'

"The statute, therefore, being expressly made to remove doubts, and accurately to define treason, adopted the ancient expression of the common law, as applicable to felonious homicide, meaning that the life of the Sovereign should remain an exception, and that *voluntas pro facto*, the wicked intention for the deed itself (as it regarded his sacred life), should continue for the rule: and, therefore, says Forster, the statute, meaning to retain the law which was before general, retained also the expression. It appears to me, therefore, incontrovertible, not only by the words of the statute itself, but upon the authority of Forster, which I shall follow up by that of Lord Coke and Hale, contradicted by no syllable in their works, as I shall demonstrate, that the statute, as it regarded the security of the King's life, did not mean to enact a new security never known to the common law in other cases, but meant to suffer a common law rule, which formerly existed universally, which was precisely known, but which was too severe in common cases, to remain as an exception in favour of the King's security. I do, therefore, positively maintain, not as an advocate merely, but in my own person, that, within the letter and meaning of the statute, nothing can be a compassing the death of the King that would not, in ancient times, have been a felony in the case of a subject; for otherwise Forster and Coke, as will be seen, are very incorrect when they say the statute *retained* the old law, and the appropriate word to express it; for if it went *beyond* it, it would, on the contrary, have been a new rule unknown to the common law, enacted for the first time, for the preservation of the King's life. Unquestionably, the legislature might have made such a rule; but we are not inquiring what it might have enacted, but what it has enacted. But I ought to ask pardon for having relapsed into any argument of my own upon this subject, when the authorities are more express to the purpose than any language I can use. For Mr. Justice Forster himself expressly says,—*Discourse 1st, of High Treason, p.* 207, 'All the words descriptive of the offence, viz., 'If a man doth compass or imagine, and thereof be attainted of open deed,' are plainly borrowed from the common law, and therefore must bear the same construction they did at common law.' Is this distinct? I will read it to you again: 'All the words descriptive of the offence, viz., 'If a man doth compass or imagine, and thereof be attainted of open deed,' are plainly borrowed from the common law, and therefore must bear the same construction they did at common law.'

"Gentlemen, Mr. Justice Forster is by no means singular in this doctrine. Lord Coke, the oracle of the law, and the best oracle that one can consult, when standing for a prisoner charged with treason, as he was the highest prerogative lawyer that ever existed, maintains the same doctrine; even he, even Coke, the infamous prosecutor of Raleigh, whose character with posterity, as an attorney-general, my worthy and honourable friend would dis-

dain to hold, to be author of all his valuable works ; yet even this very Lord Coke himself, holds precisely the same language with Forster. For, in his commentary on this statute, in his *3rd Institute*, p. 5, when he comes to the words, ' Doth compass,' he says, ' Let us see first what the compassing the death of a subject was before the making of this statute, when *voluntas reputabatur pro facto.*' Now, what is the plain English of this ? The commentator says, I am going to instruct you, the student, who are to learn from me the law of England, what is a compassing of the death of the king ; but that I cannot do, but by first carrying you to look into what was the compassing the death of a subject at the ancient common law ; because the statute having made a compassing, as applied to the King, the crime of high treason, which, at common law, was felony in the case of a subject, it is impossible to define the one, without looking back to the records which illustrate the other. This is so directly the train of Lord Coke's reasoning, that in his own singularly precise style of commentating, he immediately lays before his reader a variety of instances from the ancient records and year-books, of compassing the subject's death ; and what are they ? Not acts wholly collateral to attacks upon life, dogmatically laid down by the law from speculations upon probable or possible consequences ; but assaults *with intent to murder ;* conspiracies to waylay the person with the same intention ; and other *murderous* machinations. These were only compassings before the statute against the subject's life ; and the extension of the expression was never heard of in the law till introduced by the craft of political judges, when it became applicable to crimes against the state. Here, again, I desire to appeal to the highest authorities for this source of constructive treasons ; for although the statute of Edward the Third had expressly directed that nothing should be declared to be treason but cases within its enacting letter, yet Lord Hale says, in his Pleas of the Crown, page 83, that ' things were so carried by parties and factions, in the succeeding reign of Richard the Second, that this statute was but little observed, but as this or that party got the better. So the crime of high treason was in a manner arbitrarily imposed and adjudged, to the disadvantage of the party that was to be judged ; which, by various vicissitudes and revolutions, mischiefed all parties, first and last, and left a great unsettledness and unquietness in the minds of the people, and was one of the occasions of the unhappiness of that King.

" ' All this mischief was produced by the statute of the 21st of Richard the Second, which enacted, That every man that compasseth or pursueth the death of the King, or *to depose him*, or to render up his homage liege, or he that raiseth people, and rideth against the King, to make war within his realm, and of that be duly attainted and adjudged, shall be adjudged a traitor, of high treason against the Crown.'

" ' This (says Lord Hale) was a great snare to the subject, insomuch that the statute, 1st of Henry Fourth, which repealed it, recited that no man knew how he ought to behave himself, to do, speak, or say, for doubt of such pains of treason ; and, therefore, wholly to remove the prejudice which might

come to the King's subjects, the statute, 1st of Henry Fourth, chap. 10, was made, which brought back treason to the standard of the 25th of Edward the Third.'

" Now, if we look to this statute of Richard the Second, which produced such mischiefs, what are they ? As far as it re-enacted the treason of compassing the King's death, and levying war, it only re-enacted the statute of Edward the Third, but it went beyond it by the loose construction of compassing to depose the King, and raising the people, and riding to make war, or a compassing to depose him : terms new to the common law. The actual levying of force, to imprison, or depose the King, was already and properly high treason, within the second branch of the statute ; but this statute of Richard the Second enlarged only the crime of compassing, making it extend to a compassing to imprison or depose, which are the great objects of an actual levying of war, and making a compassing to levy war, on a footing with the actual levying it. It seems, therefore, most astonishing, that any judge could be supposed to have decided, as an abstract rule of law, that a compassing to imprison or depose the King was high treason, substantively, without previous compassing of his death : since it was made so by this statute, 21st of Richard the Second, and reprobated, stigmatised, and repealed by the statute, 1st of Henry the Fourth, chap. 10, ' And so little effect,' says Mr. Justice Blackstone, ' have over-violent laws to prevent any crime, that, within two years after this new law of treason respecting imprisonment and deposing, this very prince was both deposed and murdered.'

" Gentlemen, this distinction, made by the humane statute of Edward the Third, between treason against the King's natural life, and rebellion against his civil authority, and which the act of Richard the Second, for a season, broke down, is founded in wise and sound policy. A successful attack may be made upon the King's person by the malignity of an individual, without the combination of extended conspiracy, or the exertions of rebellious force ; the law, therefore, justly stands upon the watch to crush the first overt manifestation of so evil and detestable a purpose. Considering the life of the chief magistrate as infinitely important to the public security, it does not wait for the possible consummation of a crime, which requires neither time, combination, nor force to accomplish, but considers the traitorous purpose as a consummated treason : but the wise and humane policy of our forefathers extended the severity of the rule, *voluntas pro facto*, no further than they were thus impelled and justified by the necessity ; and, therefore, an intention to levy war and rebellion, not consummated, however manifested by the most overt acts of conspiracy, was not declared to be treason, and upon the plainest principle in the world ; the King's REGAL capacity, guarded by all the force and authority of the state, could not, like his NATURAL existence, be overthrown or endangered in a moment, by the first machinations of the traitorous mind of an individual, or even by the unarmed conspiracy of numbers ; and, therefore, this humane and exalted institution, measuring the sanctions of criminal justice by the standard of civil necessity, thought it

sufficient to scourge and dissipate unarmed conspirators by a less vindictive proceeding.

"These new treasons were, however, at length all happily swept away on the accession of King Henry the Fourth, which brought the law back to the standard of Edward the Third; and, indeed, in reviewing the history of this highly favoured island, it is most beautiful and, at the same time, highly encouraging to observe, by what an extraordinary concurrence of circumstances, under the superintendence of a benevolent Providence, the liberties of our country have been established. Amidst the convulsions, arising from the maddest ambition and injustice, and whilst the state was alternately departing from its poise on one side and on the other, the great rights of mankind were still insensibly taking root and flourishing; though sometimes monarchy threatened to lay them prostrate, though aristocracy occasionally undermined them, and democracy, in her turn, rashly trampled on them, yet they have ever come safely round at last. This awful and sublime contemplation should teach us to bear with one another when our opinions do not quite coincide; extracting final harmony from the inevitable differences which ever did, and ever must, exist amongst men.

"Gentlemen, the act of Henry the Fourth was scarcely made when it shared the same fate with the venerable law which it restored. Nobody regarded it. It was borne down by factions, and, in those days, there were no judges as there are now, to hold firm the balance of justice amidst the storms of state; men could not, then, as the prisoner can to-day, look up for protection to magistrates independent of the Crown,* and awfully accountable in character to an enlightened world. As fast as arbitrary constructions were abolished by one statute, unprincipled judges began to build them up again, till they were beat down by another: to recount their strange treasons would be tiresome and disgusting; but their system of construction, in the teeth of positive law, may be well illustrated by two lines from Pope:—

> "Destroy his fib and sophistry in vain,
> The creature 's at his dirty work again."

This system, both judicial and parliamentary, became indeed so intolerable, in the interval between the reign of Henry the Fourth, and that of Philip and Mary,† that it produced, in the first year of the latter reign, the most

* At the recommendation of George III., the Judges were made independent of the Crown, by holding their offices for life at a certain fixed salary.

† Among the new treasons created during this interval, particularly in the reign of Henry VIII., may be reckoned the following:—viz., clipping money, breaking prison or rescue when the prisoner is committed for treason, burning houses to extort money, stealing of cattle by Welshmen, counterfeiting foreign coin, wilful poisoning, execrations against the King, calling him opprobrious names by public writing, counterfeiting the sign manual or signet, refusing to abjure the Pope, deflowering, or marrying without the royal license, any of the king's children, sisters, aunts, nephews, or nieces, bare solicitation of the chastity of the queen or princess, or advances made by themselves, marrying with the king by a woman not a virgin, without previously discovering to him her previous unchaste life, judging or believing (manifested by any overt act) the king

remarkable statute that ever passed in England,* repealing not only all former statutes upon the subject, except that of Edward the Third, but also stigmatising, upon the records of parliament, the arbitrary constructions of judges, and limiting them, in all times, to every letter of the statute. I will read to you Lord Coke's commentary upon the subject. In his third Institute, page 23, he says :—' Before the act of the 25th of Edward the Third, so many treasons had been made and declared, and in such sort penned, as not only the ignorant and unlearned people, but also learned and expert men, were trapped and snared, * * so as the mischief before Edward the Third, of the uncertainty of what was treason and what not, became so frequent and dangerous, as that the safest and surest remedy was, by this excellent act of Mary, to abrogate and repeal all, but† only such as are specified and expressed in this statute of Edward the Third. By which law the safety of both the King and of the subject, and the preservation of the common weal, were wisely and sufficiently provided for, and in such certainty, that *nihil relictum est arbitrio judicis*.'

" The whole evil, indeed, to be remedied and avoided, by the act of Queen Mary was, the *arbitrium judicis*, or judicial construction beyond the letter of the statute. The statute itself was perfect, and was restored in its full vigour; and to suppose, therefore, that when an act was expressly made, because judges had built treasons by constructions beyond the law, they were to be left, consistently with their duty, to go on building again, is to impute a folly to the legislature, which never yet was imputed to the framers of this admirable statute. But this absurd idea is expressly excluded, not merely by the statute, according to its plain interpretation, but according to the direct authority of Lord Coke himself, in his commentary upon it. For he goes on to say, ' Two things are to be observed: first, that the word *expressed*, in the statute of Mary, excludes all implications or inferences whatsoever ; secondly, that no former attainder, judgment, precedent, resolution, or opinion of judges, or justices, of high treason, other than such as are specified and expressed in the statute of Edward the Third, are to be followed or drawn into example. For the words be plain and direct ; that from henceforth no act, deed, or offence shall be taken, had, deemed, or adjudged to be high treason, but only such as are declared and expressed in the said act of the 25th of Edward the Third, any act of parliament or statute after 25th of Edward the Third, or any other declaration or matter, to the contrary notwithstanding.'

" Gentlemen, if the *letter* of the statute of Mary, when coupled with Lord Coke's commentary, required further illustration, it would amply receive it from the PREAMBLE, which ought to be engraved on the heart of every man

to have been lawfully married to Anne of Cleve, derogating from the king's royal style and title, impugning his supremacy, assembling riotously to the number of twelve, and not dispersing on proclamation.

* 1 Mary, st. 1, c. 1. † i. e., Except.

who loves the King, or who is called to any share in his councils ; for, as Lord Coke observes, in the same commentary : It truly recites, that ' the state of a king standeth and consisteth more assured by the love and favour of the subjects towards their Sovereign, than in the dread and fear of laws, made with rigorous and extreme punishment ; and that laws, justly made for the preservation of the common weal, without extreme punishment or penalty, are more often and for the most part better kept and obeyed, than laws and statutes made with extreme punishment.'

" But, Gentlemen, the most important part of Lord Coke's commentary on this statute is yet behind, which I shall presently read to you, and to which I implore your most earnest attention ; because I will show you by it, that the unfortunate man, whose innocence I am defending, is arraigned before you of high treason, upon evidence not only wholly repugnant to this particular statute, but such as never yet was heard of in England upon any capital trial :—evidence which, even with all the attention you have given to it, I defy any one of you, at this moment, to say of what it consists ;—evidence, which (since it must be called by that name) I tremble for my boldness in presuming to stand up for the life of a man, when I am conscious that I am incapable of understanding from it, even what acts are imputed to him ;—evidence, which has consumed four days in the reading ;—not in reading the acts of the prisoner, but the unconnected writings of men, unknown to one another, upon a hundred different subjects ;* evidence, the very listening to which has deprived me of the sleep which nature requires ;—which has filled my mind with unremitting distress and agitation, and which, from its discordant unconnected nature, has suffered me to reap no advantage from the indulgence, which I began with thanking you for ; but which, on the contrary, has almost set my brain on fire, with the vain endeavour of collecting my thoughts upon a subject never designed for any rational course of thinking.

" Let us, therefore, see how the unexampled condition I am placed in falls in with Lord Coke upon this subject, whose authority is appealed to by the Crown itself ;—and let us go home and burn our books if they are to blazon forth the law by eulogium, and accurately to define its protector, which yet the subject is to be totally cut off from, when, even under the sanction of these very authors, he stands upon his trial for his existence. Lord Coke says, in the same Commentary, page 12, that the statute had not only accurately defined the charge, but the nature of the proof on which alone a man shall be attainted of any of the branches of high treason.—' It is to be observed,' says he, ' that the word in the act of Edward the Third is *proveablement :* that is, upon direct and manifest proof, not upon conjectural presump-

* An immense mass of evidence in the shape of correspondence was put in, for the purpose of showing *inter alia* the treasonable designs of the society called the " Constitutional Society," and that the " London Corresponding Society" of which Hardy was the Secretary, was closely connected with it, and advocated the same principles.

tions, or inferences, or strains of wit, but upon good and sufficient proof. And herein the adverb *provably* hath a great force, and signifieth a direct plain proof, which word the Lords and Commons in Parliament did use, for that the offence of treason was so heinous, and was so heavily and severely punished, as none other the like, and therefore the offender must be *provably* attainted, which words are as forcible as upon direct and manifest proof. Note, the word is not *probably*, for then *commune argumentum* might have served, but the word is '*provably* be attainted.'

"Nothing can be so curiously and tautologously laboured as this commentary, of even that great prerogative lawyer Lord Coke, upon this single word in the statute; and it manifestly shows, that, so far from its being the spirit and principle of the law of England, to loosen the construction of this statute, and to adopt rules of construction and proof, unusual in trials for other crimes, on the contrary, the Legislature did not even leave it to the Judges to apply the ordinary rules of legal proof to trials under it, but admonished them to do justice in that respect in the very body of the statute.

"Lord Hale treads in the same path with Lord Coke, and concludes this part of the subject by the following most remarkable passage (vol. I. chap. xi. 86):—

"'Now although the crime of high treason is the greatest crime against faith, duty, and human society, and brings with it the greatest and most fatal dangers to the government, peace, and happiness of a kingdom, or state; and, therefore, is deservedly branded with the highest ignominy, and subjected to the greatest penalties that the laws can inflict; it appears, first, how necessary it was that there should be some *known*, *fixed*, *settled* boundary for this great crime of treason, and of what great importance the statute of 25th of Edward the Third was, in order to that end. Second, how dangerous it is to depart from the *letter* of that statute, and to multiply and enhance crimes into treason by ambiguous and general words, such as accroaching royal power, subverting fundamental laws, and the like. And third, how dangerous it is by construction, and *analogy*, to make treasons where the *letter* of the law has not done it, For such a method admits of no limits or bounds, but runs as far and as wide as the wit and invention of accusers, and the detestation of persons accused, will carry men.'

"Surely the admonition of this supereminent Judge ought to sink deep into the heart of every Judge, and of every Juryman, who is called to administer justice under this statute; above all, in the times and under the peculiar circumstances which assemble us in this place. Honourable men, feeling, as they ought, for the safety of Government, and the tranquillity of the country, and naturally indignant against those who are supposed to have brought them into peril, ought, for that very cause, to proceed with more abundant caution, lest they should be surprised by their resentments or their fears; they ought to advance, in the judgments they form, by slow and trembling steps;—they ought even to fall back and look at everything

again, lest a false light should deceive them, admitting no fact but upon the foundation of clear and precise evidence, and deciding upon no intention that does not result with equal clearness from the fact. This is the universal demand of justice in every case criminal or civil;—how much more, then, in this, when the judgment is every moment in danger of being swept away into the fathomless abyss of a thousand volumes; where there is no anchorage for the understanding; where no reach of thought can look round in order to compare their points; nor any memory be capacious enough to retain even the imperfect relation that can be collected from them?

"Gentlemen, my mind is the more deeply affected with this consideration by a very recent example in that monstrous phenomenon* which, under the name of a trial, has driven us out of Westminster Hall for a large portion of my professional life. No man is less disposed that I am to speak lightly of great state prosecutions, which bind to their duty those who have no other superiors, nor any other control; last of all am I capable of even glancing a censure against those who have led to or conducted the impeachment, because I respect and love many of them, and know them to be amongst the best and wisest men in the nation. I know them indeed so well, as to be persuaded that, could they have foreseen the vast field it was to open, and the length of time it was to occupy,† they never would have engaged in it; for I defy any man, not illuminated by the Divine Spirit, to say, with the precision and certainty of an English Judge deciding upon evidence before him, that Mr. Hastings is guilty or not guilty!—for who knows what is before him, or what is not? Many have carried what they knew to their graves, and the living have lived long enough to forget it. Indeed, I pray God that such another proceeding may never exist in England; because I consider it as a dishonour to the constitution, and that it brings, by its example, insecurity into the administration of justice. Every man in civilised society has a right to hold his life, liberty, property, and reputation, under plain laws that can be well understood, and is entitled to have some limited specific part of his conduct, compared and examined by their standard;—but he ought not for seven years, no, nor for seven days, to stand as a crimnal before the highest human tribunal, until judgment is bewildered and confounded, to come at last, perhaps, to defend himself, broken down with fatigue, and dispirited with anxiety, which, indeed, is my own condition at this moment, who am only stating the case of another—What, then, must be the condition of the unfortunate person whom you are trying?

"The next great question is, how the admonitions of these great writers are to be reconciled with what is undoubtedly to be found in other parts of their works; and I think I do not go too far, when I say, that it ought to be the inclination of every person's mind who is considering the meaning of any writer, particularly if he be a person of superior learning and intelligence, to reconcile as much as possible all he says upon any subject, and not to adopt

* The impeachment of Warren Hastings. † See ante, note, p. 357.

such a construction as necessarily raises up one part in direct opposition to another.

"The law itself, indeed, adopts this sound rule of judgment in the examination of every matter which is laid before it, for a sound construction; and the Judges, therefore, are bound by duty as well as reason to adopt it.

"It appears to me, then, that the only ambiguity which arises, or can possibly arise, in the examination of the great authorities, and in the comparison of them with themselves, or with one another, is, from not rightly understanding the meaning of the term OVERT ACT as applied to this species of treason. The moment you get right upon the true meaning and signification of this expression, the curtain is drawn up, and all is light and certainty.

"Gentlemen, an overt act of the high treason charged upon this record, I take, with great submission to the Court, to be plainly and simply this:—the high treason charged, is the compassing or imagining (in other words, the intending or designing) the death of the King: I mean his NATURAL DEATH; which being a hidden operation of the mind, an overt act is anything which legally proves the existence of such traitorous design and intention—I say, that the design against the King's natural life, is the high treason under the first branch of the statute; and whatever is evidence, which may be legally laid before a Jury to judge of the traitorous intention, is a legal overt act; because an overt act is nothing but legal evidence embodied upon the record.

"The charge of compassing being a charge of intention, which, without a manifestation by conduct, no human tribunal could try, the statute requires by its very letter (but without which letter reason must have presumed) that the intention to cut off the Sovereign should be manifested by an open act; and as a prisoner charged with an intention, could have no notice how to defend himself without the charge of actions from whence the intention was to be imputed to him, it was always the practice, according to the sound principles of English law, to state upon the face of the indictment the overt act, which the Crown charges, as the means made use of by the prisoner to effect his traitorous purpose; and as this rule was too frequently departed from, the statute of the seventh of King William* enacted, for the benefit of the prisoner, that no evidence should even be given of any overt act not charged in the indictment.† The charge, therefore, of the overt acts in the indictment, is the notice, enacted by statute to be given to the prisoner for his protection, of the means by which the Crown is to submit to the Jury the existence of the traitorous purpose, which is the crime alleged against him,

* 7 and 8 William III., c. iii. s. 8.

† That is, any overt act amounting to a distinct independent charge; but if an overt act, not charged in the indictment, amount to a direct proof of any other overt act which is charged, it may be given in evidence to prove such overt act.

and in pursuance of which traitorous purpose the overt acts must also be charged to have been committed. Whatever, therefore, is relevant or competent evidence to be received in support of the traitorous intention, is a legal overt act, and what acts are competent to that purpose is (as in all other cases) matter of law for the Judges; but whether, after the overt acts are received upon the record as competent, and are established by proof upon the trial, they be sufficient or insufficient in the particular instance, to convince the Jury of the traitorous compassing or intention, is a mere matter of fact, which, from its very nature, can be reduced to no other standard than that which each man's own conscience and understanding erects in his mind, as the arbiter of his judgment. This doctrine is by no means new nor peculiar to high treason, but pervades the whole law, and may be well illustrated in a memorable case lately decided upon writ of error in the House of Lords, and which must be in the memory of all the Judges now present, who took a part in its decision:—there the question was, whether, upon the establishment of a number of facts by legal evidence, the defendant had knowledge of a fact, the knowing of which would leave him defenceless. To draw that question from the Jury to the Judges, I demurred to the evidence, saying, that though each part of it was legally admitted, it was for the law, by the mouth of the Judges, to pronounce whether this fact of knowledge could legally be inferred from it; but the Lords, with the assent of all the Judges, decided, to my perfect satisfaction, that such a demurrer to the evidence was irregular and invalid; that the province of the Jury over the effect of evidence, ought not to be so transferred to the Judges, and converted into matter of law;—that what was relevant evidence to come before a Jury, was the province of the court,—but that the conclusion to be drawn from admissible evidence, was the unalienable province of the country.

"To apply that reasoning to the case before us:—The matter to be inquired of here is, the fact of the prisoner's intention, as, in the case I have just cited it was the fact of the defendant's knowledge. The charge of a conspiracy to depose the King is, therefore, laid before you to establish that intention; its competency to be laid before you for that purpose, is not disputed; I am only contending, with all reason and authority on my side, that it is to be submitted to your consciences and understandings, whether, even if you believed the overt act, you believe also that it proceeded from a traitorous machination against the life of the King. I am only contending that these two beliefs must coincide to establish a verdict of 'guilty.' I am not contending, that, under circumstances, a conspiracy to depose the King, and to annihilate his regal capacity, may not be strong and satisfactory evidence of the intention to destroy his LIFE;—but only that in this, as in every other instance, it is for you to collect or not to collect this treason against the King's life, according to the result of your conscientious belief and judgment, from the acts of the prisoner laid before you; and that the establishment of the overt act, even if it were established, does not establish the treason against the King's life, by a consequence of law: but, on the contrary, the

overt act, though punishable in another shape, as an independent crime, is a dead letter upon this record, unless you believe, exercising your exclusive jurisdiction over the facts laid before you, that it was committed in accomplishment of the treason against THE NATURAL LIFE OF THE KING.

"Gentlemen, this particular crime of compassing the King's death, is so complete an anomaly, being wholly seated in unconsummated intention, that the law cannot depart from describing it according to its real essence, even when it is followed by his death:—a man cannot be indicted for killing the King, as was settled in the case of the Regicides of Charles I., after long consultation among all the Judges:—it was held that the very words of the statute must be pursued, and that, although the King was actually murdered, the prisoners who destroyed him could not be charged with the act itself, as high treason, but with the compassing of his death; the very act of the executioner in beheading him, being only laid as the overt act upon the record. There, though the overt act was so connected with, as to be even inseparable from, the traitorous intention, yet they were not confounded because of the effect of the precedent in dissimilar cases: and although the Regicides came to be tried immediately on the restoration of the King, in the day-spring of his authority, and before high prerogative judges, and under circumstances when, in any country but England, their trial would have been a mockery, or their execution have been awarded without even the forms of trial; yet in England, that sacred liberty, which has for ever adorned the constitution, refused to sacrifice to zeal or enthusiasm, either the substance or the forms of justice. Hear what the Chief Baron* pronounced upon that occasion,—'These persons are to be proceeded with according to the laws of the land, and I shall speak nothing to you but what are the words of the law. By the statute of Edward the Third, it is made high treason to compass and imagine the death of the King: in no case else imagination or compassing, without an actual effect, is punishable by law.' He then speaks of the sacred life of the King, and, speaking of the treason, says—'The treason consists in the wicked imagination which is not apparent; but when this poison swells out of the heart, and breaks forth into action, in that case it is high treason. Then what is an overt act of an imagination, or compassing of the King's death? Truly, it is anything which shows what the imagination of the heart is.'

"Indeed, Gentlemen, the proposition is so clear, that one gets confounded in the argument from the very simplicity of it; but still I stand in a situation which I am determined, at all events, to fulfil to the utmost; and I shall, therefore, not leave the matter upon these authorities, but will bring it down to our own times, repeating my challenge to have produced one single authority in contradiction. Lord Coke, in his *3rd Institute, page* 11 *and* 12, says, 'The indictment must charge that the prisoner traitorously compassed and imagined the death and destruction of the King.' He says, too, 'There

* Hale.

must be a compassing or imagination; for an act without compassing, intent, or imagination, is not within the act, as appeareth by the express letter thereof: *Et actus non facit reum nisi mens sit rea.*' Nothing in language can more clearly illustrate my proposition.—The indictment, like every other indictment, must charge distinctly and specifically the crime: that charge must, therefore, be in the very words of the statute which creates the crime; the crime created by the statute, not being the perpetration of any act, but being, in the rigorous severity of the law, the very contemplation, intention, and contrivance of a purpose directed to an act: that contemplation, purpose, and contrivance must be found to exist, without which, says Lord Coke, there can be no compassing; and as the intention of the mind cannot be investigated without the investigation of conduct, the overt act is required by the statute, and must be laid in the indictment and proved. It follows from this deduction, that upon the clear principles of the English law, every act may be laid as an overt act of compassing the King's death, which may be reasonably considered to be relevant and competent to manifest that intention; for, were it otherwise, it would be shutting out from the view of the Jury certain conduct of the prisoner; which might, according to circumstances, lead to manifest the criminal intention of his mind; and as more than one overt act may be laid, and even overt acts of different kinds, though not in themselves substantively treason, the Judges appear to be justified in law, when they ruled them to be overt acts of compassing the death of the King; because they are such acts as before the statute of King William, which required that the indictment should charge all overt acts, would have been held to be relevant proof; of which relevancy of proof the Judges are to judge as matter of law; and therefore, being relevant proof, must also be relevant matter of charge, because nothing can be relevantly charged which may not also be relevantly admitted to proof. These observations explain, to the meanest capacity, in what sense Lord Coke must be understood, when he says, in the very same page, that, 'A preparation to depose the King, and to take the King by force and strong hand, until he has yielded to certain demands, is a sufficient overt act to *prove* the compassing of the King's death.' He does not say, *as a proposition of law*, that he who prepares to seize the King, compasseth his death; but that a preparation to seize him is a sufficient overt act *to prove* the compassing; and he directly gives the reason, 'Because of the strong tendency it has to that end.' This latter sentence destroys all ambiguity. I agree perfectly with Lord Coke, and I think every judge would so decide, upon the general principles of law and evidence, without any resort to his authority for it; and for this plain and obvious reason: The judges who are by law to decide upon the relevancy or competency of the proof, in every matter, criminal and civil, have immemorially sanctioned the indispensable necessity of charging the traitorous intention as the crime, before it was required by the statute of King William. As the crime is in its nature invisible and inscrutable, until manifested by such conduct as in the eye of reason is indicative of the intention, which constitutes the crime; no overt

act is therefore held to be sufficient to give jurisdiction, even to a jury to draw the inference in fact of the traitorous purpose, but such acts from whence it may be reasonably inferred ; and therefore, as the restraint and imprisonment of a Prince has a greater tendency to his destruction than in the case of a private man, such conspiracies are admitted to be laid as overt acts, upon this principle—that if a man does an act from whence either an inevitable or a mainly probable consequence may be expected to follow, much more if he persists deliberately in a course of conduct, leading certainly or probably to any given consequence, it is reasonable to believe that he foresaw such consequence, and by pursuing his purpose with that foreknowledge, the intention to produce the consequence may be fairly imputed. But then all this is matter of fact for the Jury from the evidence, not matter of law for the Court, further than it is the privilege and duty of the Judge to direct the attention of the Jury to the evidence, and to state the law as it may result from the different views the Jury may entertain of the facts : and if such acts could not be laid as overt acts, they could not be offered in evidence ; and if they could not be offered in evidence, the *mind* of the Prisoner, which it was the object of the trial to lay open as a clue to his intention, would be shut up and concealed from the Jury, whenever the death of the Sovereign was sought by circuitous but obvious means, instead of by a direct and murderous machination. But when they are thus submitted, as matter of charge and evidence, to prove the traitorous purpose which is the crime, the security of the King and of the subject is equally provided for: all the matter which has a relevancy to the crime, is chargeable and proveable, not substantively to raise from their establishment a *legal* inference, but to raise a presumption in *fact*, capable of being weighed by the Jury with all the circumstances of the transaction, as offered to the Crown and the Prisoner ; their province being finally to say—not what was the possible or the probable consequence of the overt act laid in the indictment, but whether it has brought them to a safe and conscientious judgment of the guilt of the Prisoner, *i. e.*, of his guilt in compassing the death of the King, which is the treason charged in the Indictment. Lord Hale is, if possible, more direct and explicit upon the subject. He says, *page* 107, 'The words '*compass*' or '*imagine*,' are of a great latitude ; they refer to the purpose or design of the *mind or will*, though the purpose or design takes not effect : but compassing or imagining, singly of itself, is an *internal* act, and, without something to *manifest* it, could not possibly fall under any judicial cognizance but of God alone ; and therefore this statute requires such an *overt* act as may render the compassing or imagining capable of a trial and sentence by human judicatures.' Now, can any man possibly derive from such a writing (proceeding, too, from an author of the character of Lord Hale), that an overt act of compassing might, in his judgment, be an act committed inadvertently without the intention? Can any man gather from it, that a man, by falling into bad company, can be drawn in to be guilty of this species of treason by rash conduct, while the love of his Sovereign was glowing in his bosom? Can there be any particular

acts which can entitle a judge or counsel to pronounce, *as a matter of law*, what another man intends? or that what a man intends is *not* a matter of *fact?* Is there any man that will meet the matter fairly, and advance and support that naked proposition? At all events, it is certainly not a proposition to be dealt with publicly, because the man whose mind is capable even of conceiving it, should be treasured up in a museum, and exhibited there as a curiosity, for money.

"Gentlemen, all I am asking, however, from my argument, and I defy any power of reason upon earth to move me from it, is this—that the Prisoner being charged with *intending the King's death*, YOU are to find whether this charge be founded or unfounded; and that, therefore, put upon the record what else you will—prove what you will—read these books over and over again—and let us stand here a year and a day in discoursing concerning them—still the question must return at last to what YOU and YOU ONLY can resolve—*Is he guilty of that base detestable intention to destroy the King?* NOT whether you incline to *believe* that he is guilty; NOT whether you *suspect*, nor whether it be *probable;* NOT whether he *may* be GUILTY;—no, but that PROVEABLY HE IS GUILTY. If you can say this upon the evidence, it is your duty to say so, and you may, with a tranquil conscience, return to your families; though by your judgment the unhappy object of it must return no more to his. Alas! Gentlemen, what do I say? HE has no family to return to;—the affectionate partner of his life has already fallen a victim to the surprise and horror which attended the scene now transacting. But let that melancholy reflection pass; it should not, perhaps, have been introduced—it certainly ought to have no effect upon you who are to judge upon your oaths. I do not stand here to desire you to commit perjury from compassion; but at the same time my earnestness may be forgiven, since it proceeds from a weakness common to us all. I claim no merit with the Prisoner for my zeal; it proceeds from a selfish principle inherent in the human heart,—I am counsel, Gentlemen, for myself. In every word I utter, I feel that I am pleading for the safety of my own life, for the lives of my children after me, for the happiness of my country, and for the universal condition of civil society throughout the world.

"But let us return to the subject, and pursue the doctrine of Lord Hale upon the true interpretation of the term *overt act*, as applicable to this branch of treason. Lord Hale says, and I do beseech most earnestly the attention of the Court and Jury to this passage—'If men conspire the death of the King, and thereupon provide weapons, or send letters, this is an overt act within the statute.' Take this to pieces, and what does it amount to?—'If men conspire the death of the King,' *that* is the first thing, *viz.*, the *intention*, 'and thereupon,' that is, in pursuance of that *wicked intention*, 'provide weapons, or send letters for the execution thereof,' *i. e.*, for the execution of that destruction of the King, which they have meditated, 'this is an overt act within the statute.' Surely the meaning of all this is self-evident: If the intention be against the King's life, though the conspiracy does not immediately and

directly point to his death, yet still the overt act will be sufficient if it be something which has so direct a tendency to that end, as to be competent rational evidence of the intention to obtain it. But the instances given by Lord Hale himself furnish the best illustration: 'If men conspire to imprison the King by *force and a strong hand* until he has yielded to certain demands, and *for that purpose gather company, or write letters*, that is an overt act to *prove* the compassing the King's death, as it was held in Lord Cobham's* case by all the Judges.' In this sentence Lord Hale does not depart from that precision which so eminently distinguishes all his writings; he does not say, that if men conspire to imprison the King until he yields to certain demands, and for that purpose to do so and so—this is high treason; no, nor even an overt act of high treason, though he might in legal language correctly have said so; but, to prevent the possibility of confounding the treason with matter which may be legally charged as relevant to the *proof* of it, he follows Lord Coke's expression in the third Institute, and says, 'This is an overt act to *prove* the compassing of the King's death; and, as if by this mode of expression he had not done enough to keep the ideas asunder, and from abundant regard for the rights and liberties of the subject, he immediately adds, 'But then there must be an overt act to *prove* that conspiracy; and then that overt act to prove such design, is an overt act to *prove* the compassing of the death of the King.' The language of this sentence labours in the ear from the excessive caution of the writer: afraid that his reader should jump too fast to his conclusion upon a subject of such awful moment, he pulls him back after he has read that a conspiracy to imprison the King is an overt act to prove the compassing of his death, and says to him, But recollect that there must be an overt act to *prove*, in the first place, that conspiracy to imprison the King, and even then that intention to imprison him so manifested by the overt act, is but in its turn an overt act to *prove* the compassing or intention to destroy the King. Nor does the great and benevolent Hale rest even here, but after this almost tedious perspicuity, he begins the next sentence with this fresh caution and limitation, '*But then this must be intended of a conspiracy forcibly to detain and imprison the King.*' What, then, is a conspiracy forcibly to imprison the King? Surely it can require no explanation: it can only be a direct machination to seize and detain his PERSON by rebellious force. Will this expression be satisfied by a conspiracy to seize speculatively upon his authority by the publication of pamphlets, which, by the inculcation of republican principles, may, in the eventual circulation of a course of years, perhaps in a course of centuries, in this King's time, or in the time of a remote successor, debauch men's minds from the English constitution; and, by the destruction of monarchy, involve the life of the Monarch? Will any man say that this is what the law means by a conspiracy against the King's government, supposing even that a conspiracy against his government were synonymous with a design upon his life? Can any case be produced where a person

* Lord Cobham took part in the rash conspiracy of Raleigh against James I., A.D. 1604. He was tried and convicted, and condemned to death, but subsequently pardoned.

has been found guilty of high treason, under this branch of the statute, where no war has been actually levied, unless where the conspiracy has been a forcible invasion of the King's personal liberty or security? I do not mean to say that a conspiracy to levy war may not, in many instances, be laid as an overt act of compassing the King's death, because the war may be mediately or immediately pointed distinctly to his destruction or captivity; and, as Lord Hale truly says, 'small is the distance between the prisons and graves of princes.' But multiply the instances as you will, still the principle presents itself. The truth of this very maxim, built upon experience, renders an overt act of this description rational and competent evidence to be left to a jury of a design against the King's life; but it does not, therefore, change the nature of the crime, nor warrant any Court to declare the overt act to be legally and conclusively indicative of the traitorous intention; because, if this be once admitted to be law, and the Jury are bound to find the treason upon their belief of the existence of the overt act, the trial by the country is at an end, and the Judges are armed with an arbitrary uncontrollable dominion over the lives and liberties of the nation.

"Gentlemen, I will now proceed to show you, that the doctrines which I am insisting on have been held by all the great judges of this country, in even the worst of times; and that they are, besides, not at all peculiar to the case of high treason, but pervade the whole system of the criminal law. Mr. Justice Forster, so justly celebrated for his writings, lays down the rule thus:—It may be laid down, as a general rule, that 'indictments founded upon penal statutes, *especially the most penal*, must pursue the statute so as to bring the party within it.' And this general rule is so expressly allowed to have place in high treason, that it is admitted, on all hands, that an indictment would be radically and incurably bad, unless it charged the compassing of the King's death, as the leading and fundamental averment, and unless it formally charged the overt act to be committed in order to effectuate the traitorous purpose. Nobody ever denied this proposition; and the present indictment is framed accordingly. Now, it is needless to say, that if the benignity of the general law requires this precision in the indictment, the proof must be correspondingly precise, for otherwise the subject would derive no benefit from the strictness of the indictment; the strictness of which can have no other meaning in law or common sense, than the protection of the prisoner; for if, though the indictment must directly charge a breach of the very LETTER of the statute, the prisoner could, nevertheless, be convicted by evidence not amounting to a breach of the LETTER, then the strictness of the indictment would not only be no protection to the prisoner, but a direct violation of the first principles of justice, criminal and civil, which call universally for the proof of all material averments in every legal proceeding. But Mr. Justice Forster expressly adverts to the necessary severity of proof, as well as of charge; for he says, that 'although a case is brought within the *reason* of a penal statute, and within the *mischief* to be prevented, yet, if it does not come within the unequivocal *letter*, the benignity of the

law interposeth.' If the law, then, be thus severe in the interpretation of every penal proceeding, even down to an action for the killing of a hare or a partridge, are its constructions only to be enlarged and extended as to the statute of high treason, although the single object of passing it was to guard against constructions?

"Gentlemen, the reason of the thing is so palpably and invincibly in favour of this analogy, that it never met with a direct opposition. The Attorney-General himself distinctly admits it, in one part of his address to you, though he seems to deny it in another. I hope that when I state one part of his speech to be in diametrical opposition to another, he will not suppose that I attribute the inconsistency to any defect, either in his understanding or his heart; far from it—they arise, I am convinced, from some of the authorities not being sufficiently understood.

"In the beginning of his speech he admits that the evidence must be satisfactory and convincing as to the intention; but in the latter part he seems, as it were, to take off the effect of that admission. I wish to give you the very words. I took them down at the time; and if I do not state them correctly, I desire to be corrected. 'I most distinctly disavow,' said my honourable friend, 'every case of construction. I most distinctly disavow any like case of treason not within the letter of the statute. I most distinctly disavow cumulative treason. I most distinctly disavow enhancing guilt by parity of reason. The question undoubtedly is, whether the proof be full and satisfactory to your reasons and consciences, that the prisoner is guilty of the treason of compassing the King's death.' Gentlemen, I hope that this will always with equal honour be admitted. Now, let us see how the rest of the learned gentleman's speech falls in with this. For he goes on to say, that it is by no means necessary that the distinct, specific intention should pre-exist the overt act. 'If the overt act,' says he, 'be deliberately committed, it is a compassing.' But how so, if the intention be admitted to be the treason? What benefit is obtained by the rigorous demand of the statute, that the compassing of the King's death shall be charged by the indictment as the crime, if a crime different, or short of it, can be substituted for it in the proof? And how can the statute of Richard the Second be said to be repealed, which made it high treason to compass to depose the King, independently of intention upon his life, if the law shall declare, notwithstanding the repeal, that they are synonymous terms, and that the one conclusively involves the other?

"Gentlemen, if we examine the most prominent cases which have come in judgment before judges of the most unquestionable authority, and, after the constitution had become fixed, you will find everything that I have been saying to you justified and confirmed.

"The first great state trial, after the Revolution, was the case of Sir John Friend, a conspirator in the assassination plot.* Sir John Friend was

* In 1695, the year after the death of Queen Mary, which event it was considered would considerably weaken the authority of the King (William III.), several of the

indicted for compassing and imagining the death of King William ; and the overt acts charged, and principally relied on, were, first, the sending Mr. Charnock into France to King James, to desire him to persuade the French King to send forces over to Great Britain, to levy war against, and to depose the King, and that Mr. Charnock was actually sent ; and, secondly, the preparing men to be levied to form a corps to assist in the restoration of the Pretender, and the expulsion of King William, of which Sir John Friend was to be the colonel. In this case, if the proofs were not to be wholly discredited, and the overt acts were consequently established, they went rationally to convince the mind of every man of the pre-existing intention to destroy the King. The conspiracy was not to do an act which, though it might lead eventually and speculatively to the King's death, might not be foreseen or designed by those who conspired together : the conspiracy was not directed to an event probably leading to another and a different one, and from the happening of which second, a third still different might be engendered, which third might again lead in its consequences to a fourth state of things, which might, in the revolution of events, bring on the death of the King, though never compassed or imagined: Friend's conspiracy, on the contrary, had for its *direct* and *immediate* object, the restoration of the Pretender* to the throne, by the junction of foreign and rebellious force. In my opinion (and I am not more disposed than others to push things beyond their mark in the administration of criminal justice), Sir John Friend, if the evidence against him found credit with the Jury, could have no possible defence ; since the evidence went directly to prove the despatch of Charnock to France, under his direction, to invite the French King to bring over the Pretender into England, and to place him on the throne. The intention, therefore, of Sir John Friend to cut off King William, was a clear inference from the overt act in question ; not an inference of *law* for the Court, but of *fact* for the Jury, under the guidance of plain common sense ; because the consequence of the Pretender's regaining the throne, must have been the attainder of King William by Act of Parliament. Some gentlemen seem to look as if they thought not ; but I should be glad to hear the position contradicted. I repeat, that if the Pretender had been restored, as King of England, the legal consequence would have been, that King William would have been a traitor and an usurper, and subject, as such, to be tried at the Old Bailey, or wherever else the King, who took his place, thought fit to bring him to judgment. From these premises, therefore, there could be no

Jacobites conspired to seize his person, and convey him to France, and, in case of resistance, to assassinate him ; and messengers were sent to St. Germain's, where James II. was then staying, under the protection of the French Government, to demand a commission for the purpose (which was, however, refused), and to make arrangements for a descent upon England. The principal parties connected with this conspiracy were, the Earl of Aylesbury, Lord Montgomery, Sir John Fenwick, Sir John Friend, Capt. Charnock, Capt. Porter, and Mr. Goodman.

* This title is generally applied to the Chevalier De St. George, the son of James, and not to James II. himself while in exile.

difficulty of inferring the intention; and, therefore, if ever a case existed where, from the clearness of the inference, the province of the Jury might have been overlooked, and the overt act confounded with the treason, it was in the instance of Friend; but so far was this from being the case, that you will find, on the contrary, everything I have been saying to you, since I began to address you, summed up and confirmed by that most eminent magistrate, Lord Chief Justice Holt, who presided upon that trial.

"He begins thus :—'Gentlemen of the Jury, look ye, the treason that is mentioned in the indictment is conspiring, compassing, and imagining the death of the King. To prove the conspiracy and design of the King's death, two principal overt acts are insisted on.' He does not consider the overt act of conspiracy and consultation to be the treason, but evidence (as it undoubtedly was in that case) to prove the compassing the death. The Chief Justice then states the two overt acts above mentioned, and sums up the evidence for and against the prisoner, and leaves the intention to the Jury *as matter of fact.* For it is not till afterwards that he comes to answer the prisoner's objection in point of law, as the Chief Justice in terms puts it—'There is another thing,' said Lord Chief Justice Holt, 'he did insist upon, *and that is matter of law.* The statute 25th Edward the Third was read, which is the great statute about treason, and that does contain divers species of treason, and declares what shall be treason: one treason is the compassing and imagining the death of the King; another is the levying war. Now says he' (that is, Friend), 'here is no war actually levied; and a bare conspiracy to levy war, does not come within the law against treason.' To pause here a little: Friend's argument was this—Whatever my intentions might be—whatever my object of levying war might have been—whatever might have been my design to levy it—however the destruction of the King might have been effected by my conspiracy, if it had gone on — and however it might have been my intention that it should,—it is not treason within the 25th of Edward the Third. To which Holt replied, a little incorrectly in language, but right in substance—'Now for that I must tell you, if there be only a conspiracy to levy war, it is not treason;' that is, it is not a substantive treason: it is not a treason in the abstract. 'But if the design and conspiracy be either to kill the King, or to depose him, or imprison him, or put any force or restraint upon him,' that is, personal restraint by force, 'and the way of effecting these purposes is by levying a war: there the conspiracy and consultation, to levy war for that purpose, is high treason, though no war be levied: for such consultation and conspiracy is an overt act proving the compassing the death of the King.' But what sort of war is it, the bare conspiracy to levy which, is an overt act to prove a design against the King's life, though no war be actually levied? Gentlemen, Lord Holt himself illustrates this matter so clearly, that if I had anything at stake short of the honour and life of the prisoner, I might sit down as soon as I had read it: for if one did not know it to be an extract from an ancient trial, one would say it was admirably and accurately written for the present purpose. It is a

sort of prophetic bird's-eye view of what we are engaged in at this moment: 'There may be war levied (continues Lord Holt in Friend's case) without any design upon the King's person, which, if *actually levied*, is high treason, though purposing and designing such a levying of war is not so. As, for example: if persons do assemble themselves, and act with force, in opposition to some law, and hope thereby to get it repealed; this is a levying war, and treason, though the *purposing and designing* of it is not so. So when they endeavour, in great numbers, with force, to make reformation of their own heads, without pursuing the methods of the law, that is a levying war, but the *purpose and designing* is not so. But if there be, as I told you, a purpose and design to destroy the King, *and*' (not *or* to depose him, but *and* to depose him) 'to depose him from his throne, which is proposed and designed to be effected by war that is to be levied; such a conspiracy and consultation to levy war for the bringing this to pass' (that is, for bringing the King's death to pass) 'is an overt act of high treason. So that, Gentlemen, as to that objection which he makes, in point of law, it is of no force, if there be evidence sufficient to convince you that he did conspire to levy war for such an end.' And he concludes by again leaving the intention expressly to the Jury.

"It is the end, therefore, for which the war is to be levied, and not the conspiracy to do any act which the law considers as a levying of war, that constitutes an overt act of treason against the King's life. The most rebellious movements towards a reform in *Government*, not directed against the *King's person*, will not, according to Lord Holt, support the charge before you.—I might surround the House of Commons with fifty thousand men, for the express purpose of forcing them, by duress, to repeal any law that is offensive to me, or to pass a bill for altering elections, without being a possible object of this prosecution.—Under the other branch of the statute, I might indeed be convicted of levying war, but not of compassing the King's death; and if I only conspired and meditated this rising to repeal laws by rebellion, I could be convicted of nothing but a high misdemeanour. I would give my friends the case upon a special verdict, and let them hang me if they could. How much more might I give it them if the conspiracy imputed was not to effect a reform by violence, but, as in the case before us, by pamphlets and speeches, which might produce universal suffrage, which universal suffrage might eat out and destroy Aristocracy, which destruction might lead to the fall of Monarchy, and, in the end, to the death of the King. Gentlemen, if the cause were not too serious, I should liken it to the play with which we amuse our children: this is the cow with the crumpled horn, which gored the dog, that worried the cat, that ate the rat, &c., ending in the house which Jack built.

"I do, therefore, maintain, upon the express authority of Lord Holt, that, to convict a prisoner, charged with this treason, it is absolutely necessary that you should be satisfied of his intention against the King's life, as charged in the indictment, and that no design against the King's government will even be a legal overt act to be left to a jury as the evidence of such an

intention (much less the substantive and consummate treason), unless the conspiracy be directly pointed against the person of the King. The case of Lord George Gordon is opposed to this as a high and modern decision; and the Attorney-general descended, indeed, to a very humble and lowly authority, when he sought to maintain his argument by my own speech, as counsel for that unfortunate person. The passage of it alluded to lies at this moment before me; and I shall repeat it, and re-maintain it to-day. But let it first be recollected, that Lord George Gordon was not indicted for compassing or imagining the King's death, under the first branch of the statute, but for levying war under the second.* It never, indeed, entered into the conception of any man living, that such an indictment could have been maintained, or attempted against him: I appeal to one of your lordships now present, for whose learning and capacity I have the greatest and highest respect, and who sat upon that trial, that it was not insinuated from the bar, much less adjudged by the Court, that the evidence had any bearing upon the first branch of treason. I know that I may safely appeal to Mr. Justice Buller for the truth of this assertion; and nothing, surely, in the passage from my address to the Jury, has the remotest allusion to assimilate a conspiracy against the King's Government (collateral to his person) with a treason against his life. My words were:† '*To compass or imagine the death of the King;* such imagination, or purpose of the mind, visible only to its great Author, being manifested by some open act; an institution obviously directed, not only to the security of his natural person, but to the stability of the Government; the life of the Prince being so interwoven with the constitution of the State, that an attempt to destroy the one, is justly held to be a rebellious conspiracy against the other.'

"What is this, but to say that the King's sacred life is guarded by higher sanctions than the ordinary laws, because of its more inseparable connexion with the public security, and that an attempt to destroy it is, therefore, made treason against the State? But the Attorney-general is, I am sure, too correct in his logic to say, that the converse of the proposition is, therefore, maintained, and that an attack upon the King's authority, without design upon his person, is affirmed by the same expression to be treason against his life. His correct and enlarged mind is incapable of such confusion of ideas.

"But it is time to quit what fell from me upon this occasion, in order to examine the judgment of the Court, and to clothe myself with the authority of that great and venerable magistrate, whose memory will always be dear to me, not only from the great services he rendered to his country in the administration of her justice, but on account of the personal regard and reverence I had for him when living.

"Lord Mansfield, in delivering the law to the Jury upon Lord George Gordon's trial (I appeal to the trial itself, and to Mr. Justice Buller, now

* See Introduction to Speech in defence of Lord George Gordon, ante p. 266.

† See ante p. 269.

present, who agreed in the judgment), expressly distinguished between the safety provided for the King's natural person, by the first branch of the statute, and the security of his executive power under the second. That great judge never had an idea that the natural person of the King, and the majesty of the King, were the same thing, nor that the treasons against them were synonymous; he knew, on the contrary, for he knew all that was to be known, that as substantive crimes they never had been blended. I will read his own words: 'There are two kinds of levying war:—one against the person of the King; to imprison, to dethrone, or to kill him; or to make him change measures, or remove counsellors:—the other, which is said to be levied against the majesty of the King, or, in other words, against him in his regal capacity; as when a multitude rise and assemble to attain by force and violence any object of a general public nature; that is levying war against the majesty of the King; and most reasonably so held, because it tends to dissolve all the bonds of society, to destroy property, and to overturn Government; and, by force of arms, to restrain the King from reigning according to law.' But then observe, Gentlemen, *the war must be actually levied;* and here, again, I appeal to Mr. Justice Buller, for the words of Lord Mansfield, expressly referring for what he said to the authority of Lord Holt, in Sir John Friend's case, already cited: 'Lord Chief Justice Holt, in Sir John Friend's case, says:—'If persons do assemble themselves and act with force, in opposition to some law which they think inconvenient, and hope thereby to get it repealed, this is a levying war, and treason.'—'In the present case it don't rest upon an implication that they hoped by opposition to a law to get it repealed; but the prosecution proceeds upon the direct ground, that the object was, by *force and violence*, to compel the Legislature to repeal a law; and. therefore, without any doubt, I tell you the joint opinion of us all, that, if this multitude assembled *with intent, by acts of force and violence*, to compel the Legislature to repeal a law, it is high treason.'

"Let these words of Lord Mansfield be taken down, and then show me the man, let his rank and capacity be what they may, who can remove me from the foundation on which I stand, when I maintain that a conspiracy to levy war for the objects of reformation, is not only not the high treason charged by this indictment, when not directly pointed against the King's person, but that even the actual levying it would not amount to the constitution of the crime. But this is the least material part of Lord Mansfield's judgment, as applicable to the present question; for he expressly considers *the intention* of the prisoner, whatever be the act of treason alleged against him, to be all in all. So far from holding the probable, or even inevitable, consequence of the thing done as constituting the quality of the act, he pronounces them to be nothing as separated from the criminal design to produce them. Lord George Gordon assembled an immense multitude around the House of Commons; a system so opposite to that of the persons accused before this commission, that it appears from the evidence they would not even allow a man to come amongst them, because he had been Lord George's attorney. The

Lords and Commons were absolutely blockaded in the chambers of Parliament; and if control was the intention of the prisoner, it must be wholly immaterial what were the deliberations that were to be controlled; whether it was the continuance of Roman Catholics under penal laws, the repeal of the septennial act, or a total change of the structure of the House of Commons, that was the object of violence, the attack upon the legislature of the country would have been the same. That the multitude were actually assembled round the Houses, and brought there by the prisoner, it was impossible for me as his counsel even to think of denying; nor that their tumultuous proceedings were not in effect productive of great intimidation, and even danger, to the Lords and Commons, in the exercise of their authority; neither did I venture to question the law, that the assembling the multitude *for that purpose*, was levying war within the statute. Upon these facts, therefore, applied to the doctrines we have heard upon this trial, there would have been nothing in Lord George Gordon's case to try; he must have been instantly, without controversy, convicted. But Lord Mansfield did not say to the Jury (according to the doctrines that have been broached here), that if they found the multitude, assembled by the prisoner, were in fact palpably intimidating and controlling the Parliament in the exercise of their functions, he was guilty of high treason, whatever his *intentions* might have been. He did not tell them that the inevitable consequence of assembling a hundred thousand people round the Legislature, being a control on their proceedings, was therefore a levying war; though collected from folly and rashness, without the *intention* of violence or control. If this had been the doctrine of Lord Mansfield, there would, as I said before, have been nothing to try; for I admitted, in terms, that his conduct was the extremity of rashness, and totally inconsistent with his rank in the country, and his station as a member of the House of Commons. But the venerable magistrate never for a moment lost sight of the grand ruling principle of criminal justice, that crimes can have no seat but in the mind; and upon the prisoner's *intention*, and upon his *intention alone*, he expressly left the whole matter to the Jury, with the following directions, which I shall read *verbatim* from the Trial: 'Having premised these several propositions and principles, the subject matter for your consideration naturally resolves itself into two points:—

"'First, Whether this multitude did assemble and commit acts of violence, with intent to terrify and compel the Legislature to repeal the act called Sir George Saville's. If upon this point your opinion should be in the negative, that makes an end of the whole, and the prisoner ought to be acquitted: but if your opinion should be that the intent of this multitude, and the violence they committed, was to force a repeal, there arises a second point—

"'Whether the prisoner at the bar incited, encouraged, promoted, or assisted in raising this insurrection, and the terror they carried with them, with the INTENT of forcing a repeal of this law.

"'Upon these two points, which you will call your attention to, depends

the fate of this trial; for if either the multitude had no such intent, or supposing they had, if the prisoner was no cause, did not excite, and took no part in conducting, counselling, or fomenting the insurrection, the prisoner ought to be acquitted; and there is no pretence that he personally concurred in any act of violence.'

"I therefore consider the case of Lord George Gordon as a direct authority in my favour.

"To show that a conspiracy to depose the King, independently of ulterior intention against his life, is high treason within the statute, the Attorney-general next supposes that traitors had conspired to depose King William, but still to preserve him as Stadtholder in Holland, and asks whether that conspiracy would not be a compassing his death. To that question I answer, that it would not have been a compassing the death of King William, provided the conspirators could have convinced the Jury that their firm and *bonâ fide* intention was to proceed no further, and that, under that belief and impression, the Jury (as they lawfully might) had negatived, by their finding, the fact of the intention against the King's natural existence. I have no doubt at all that, upon such a finding, no judgment of treason could be pronounced; but the difficulty would be to meet with a jury who, upon the bare evidence of such a conspiracy, would find such a verdict. There might be possible circumstances to justify such a negative of the intention, but they must come from the prisoner. In such a case the Crown would rest upon the conspiracy to depose, which would be *primâ facie* and cogent evidence of the compassing, and leave the hard task of rebutting it on the defendant: I say the hard task, because the case put is of a direct rebellious force, acting against the King; not only abrogating his authority, but imprisoning, and expelling his person from the kingdom. I am not seeking to abuse the reasons and consciences of Juries in the examination of facts, but am only resisting the confounding them with arbitrary propositions of law.

"Gentlemen, I hope I have now a right to consider that the existence of the high treason charged against the unfortunate man before you, is a matter of fact for your consideration upon the evidence. To establish this point has been the scope of all that you have been listening to with so much indulgence and patience. It was my intention to have further supported myself, by a great many authorities, which I have been laboriously extracting from the different books of the law; but I find I must pause here, lest I consume my strength in this preliminary part of the case, and leave the rest defective.

"Gentlemen, the persons named in the indictment are charged with a conspiracy to subvert the rule, order, and government of this country; and it is material that you should observe most particularly the means by which it alleges this purpose was to be accomplished. The charge is not of a conspiracy to hold the Convention in Scotland,* which was actually held there; nor of the part they took in its actual proceedings; but the overt act, to

* See Introduction to Mr. Sheridan's Speech, ante p. 191.

which all the others are subsidiary and subordinate, is a supposed conspiracy to hold a convention in England, which never in fact was held;* and consequently all the vast load of matter which it has been decided you should hear, that does not immediately connect itself with the charge in question, is only laid before you—as the Court has repeatedly expressed it—to prove that, in point of fact, such proceedings were had, the quality of which is for your judgment; and as far, and as far only, as they can be connected with the prisoner, and the act which he stands charged with, to be left to you, as evidence of the intention with which the holding of the second Convention was projected.

"THIS INTENTION is therefore the whole cause—for the charge is not the agreement to hold a convention, which it is notorious, self-evident, and even admitted, that they intended to hold; but the agreement to hold it for the purpose alleged, of assuming all the authority of the state, and in fulfilment of the main intention against the life of the King. Unless, therefore, you can collect this double intention from the evidence before you, the indictment is not maintained.

"Gentlemen, the charge being of a conspiracy, which, if made out in point of fact, involved beyond all controversy, and within the certain knowledge of the conspirators, the lives of every soul that was engaged in it; the first observation which I shall make to you (because in reason it ought to precede all others) is, that every act done by the prisoners, and every sentence written by them, in the remotest degree connected with the charge, or offered in evidence to support it, were done and written in the public face of the world:—the transactions which constitute the whole body of the proof, were not those of a day, but in regular series for two years together; they were not the peculiar transaction of the prisoners, but of immense bodies of the King's subjects, in various parts of the kingdom, assembled without the smallest reserve, and giving to the public, through the channel of the daily newspapers, a minute and regular journal of their whole proceedings. Not a syllable have we heard read, in the week's imprisonment we have suffered, that we had not all of us read for months and months before the prosecution was heard of; and which, if we are not sufficiently satiated, we may read again upon the file of every coffee-house in the kingdom. It is admitted distinctly by the Crown, that a reform in the House of Commons is the ostensible purpose of all the proceedings laid before you; and that the attainment of that object only, is the grammatical sense of the great body of the written evidence. It rests therefore with the Crown, to show by legal proof that this ostensible purpose, and the whole mass of correspondence upon the table, was only a cloak to conceal a hidden machination, to subvert by force the entire authorities of the kingdom, and to assume them to themselves. Whether a reform of parliament be a wise or an unwise expedient; whether, if it were accomplished, it would ultimately be attended with benefits, or

* See the Indictment, ante p. 396.

dangers, to the country, I will not undertake to investigate, and for this plain reason: because it is wholly foreign to the subject before us. But when we are trying the integrity of men's intentions, and are examining whether their complaints of defects in the representation of the House of Commons be *bonâ fide*, or only a mere stalking-horse for treason and rebellion, it becomes a most essential inquiry, whether they be the first who have uttered these complaints; whether they have taken up notions for the first time, which never occurred to others; and whether, in seeking to interfere practically in an alteration of the constitution, they have manifested, by the novelty of their conduct, a spirit inconsistent with affection for the Government, and subversive of its authority. Gentlemen, I confess for one (for I think the safest way of defending a person for his life before an enlightened tribunal, is to defend him ingenuously), I confess for one, that if the defects in the constitution of Parliament, which are the subject of the writings, and the foundation of all the proceedings before you, had never occurred to other persons at other times, or, if not new, they had only existed in the history of former conspiracies, I should be afraid you would suspect, at least, that the authors of them were plotters of mischief. In such a case I should naturally expect that you would ask yourselves this question—Why should it occur to the prisoner at the bar, and to a few others in the year 1794, immediately after an important revolution in another country, to find fault, on a sudden, with a constitution which had endured for ages, without the imputation of defect, and which no good subject had ever thought of touching with the busy hand of reformation? I candidly admit that such a question would occur to the mind of every reasonable man, and could admit no favourable answer. But surely this admission entitles me, on the other hand, to the concession, that if, in comparing their writings, and examining their conduct with the writings and conduct of the best and most unsuspected persons in the best and most unsuspected times, we find them treading in the paths which have distinguished their highest superiors; if we find them only exposing the same defects, and pursuing the same or similar courses for their removal,—it would be the height of wickedness and injustice to torture expressions, and pervert conduct, into treason and rebellion, which had recently lifted up others to the love of the nation, to the confidence of the Sovereign, and to all the honours of the state. The natural justness of this reasoning is so obvious, that we have only to examine the fact; and, considering under what auspices the prisoners are brought before you, it may be fit that I should set out with reminding you, that the great Earl of Chatham began and established the fame and glory of his life upon the very cause* which my unfortunate clients were engaged in, and that he left it as an inheritance to the present Minister of the Crown, as the foundation of his fame and glory after him†; and his fame and glory were accordingly raised upon

* See Speech of Lord Chatham, ante p. 47, on the necessity of Parliamentary Reform.

† Mr Pitt, who, on his first entry on political life, strenuously advocated Parliamentary Reform.

it; and if the Crown's evidence had been carried as far back as it might have been (for the institution of only one of the two London Societies is before us), you would have found that the Constitutional Society owed its earliest credit with the country, if not its very birth, to the labour of the present Minister,* and its professed principles to his Grace the Duke of Richmond, high also in his Majesty's present councils,† whose plan of reform has been clearly established by the whole body of the written evidence, and by every witness examined for the Crown, to have been the type and model of all the societies in the supposed conspiracy, and uniformly acted upon in form and in substance by the prisoner before you, up to the very period of his confinement.

"Gentlemen, the Duke of Richmond's plan was universal suffrage and annual Parliaments; and urged, too, with a boldness, which, when the comparison comes to be made, will leave in the background the strongest figures in the writings on the table. I do not say this sarcastically; I mean to speak with the greatest respect of his Grace, both with regard to the wisdom and integrity of his conduct; for although I have always thought in politics with the illustrious person whose letter was read to you; although I think, with Mr. Fox, that annual Parliaments and universal suffrage would be nothing like an improvement in the constitution; yet I confess, that I find it easier to say so than to answer the Duke of Richmond's arguments on the subject; and I must say besides, speaking of his Grace from a long personal knowledge, which begun when I was counsel for his relation Lord Keppel,‡ that, independently of his illustrious rank, which secures him against the imputation of trifling with its existence, he is a person of an enlarged understanding, of extensive reading, and of much reflection; and that his book cannot, therefore, be considered as the effusion of rashness and folly, but as the well-weighed, though perhaps erroneous, conclusions drawn from the actual condition of our affairs, *viz.*, that without a speedy and essential reform in Parliament (and there my opinion goes along with him) the very being of the country, as a great nation, would be lost. This plan of the Duke of Richmond was the grand mainspring of every proceeding we have to deal with; you have had a great number of loose conversations reported from societies, on which no reliance can be had: sometimes they have been garbled by spies, sometimes misrepresented by ignorance; and even, if correct, have frequently been the extravagances of unknown individuals, not even uttered in the presence of the prisoner, and totally unconnected with any design; for whenever their proceedings are appealed to, and their real object examined, by living members of them, brought before you by the Crown, to testify them under the most solemn obligations of truth, they appear to have been following, in form and in substance, the plans adopted

* See ante note, p. 380. † Master-General of the Ordnance.

‡ In the early part of the year 1779, Mr. Erskine appeared as counsel for Admiral Keppel, who was tried by a court-martial on charges preferred against him by Sir Hugh Palliser, respecting his conduct in the partial and unsatisfactory action with the French fleet off Ushant, and honourably acquitted.

within our memories, not only by the Duke of Richmond, but by hundreds of the most eminent men in the kingdom. The Duke of Richmond formally published his plan of reform in the year 1780, in a letter to Lieutenant-Colonel Sharman,* who was, at that time, practically employed upon the same object in Ireland; and this is a most material part of the case; because you are desired to believe, that the terms CONVENTION and DELEGATES, and the holding the one, and sending the other, were all collected from what had recently happened in France, and were meant as the formal introduction of her republican constitution: but they who desire you to believe all this, do not believe it themselves; because they know certainly—and it has, indeed, already been proved by their own witnesses—that conventions of reformers were held in Ireland, and delegates regularly sent to them, whilst France was under the dominion of her ancient government. They knew full well that Colonel Sharman, to whom the Duke's letter was addressed, was, at that very moment, supporting a convention in Ireland, at the head of ten thousand men in arms, for the defence of their country, without any commission from the King, any more than poor Franklow had, who is now in Newgate for regimenting sixty. These volunteers asserted and saved the liberties of Ireland; and the King would, at this day, have had no more subjects in Ireland than he now has in America, if they had been treated as traitors to the government. It was never imputed to Colonel Sharman and the volunteers, that they were in rebellion; yet they had arms in their hands, which the prisoners never dreamed of having; whilst a grand general convention was actually sitting under their auspices at the Royal Exchange of Dublin, attended by regular delegates from all the counties in Ireland.† And who were these delegates? I will presently tear off their names from this paper,

* In this letter, and also in an address to the county of Sussex, the Duke asserted, that it was vain for the people to look to the House of Commons for redress; that they could find it only in themselves; that they ought to assert their right, and not to desist till they should have established a House of Commons truly representing every man in the kingdom.

† The origin and history of the volunteer forces in Ireland appears to have been this:—The regular troops had been so reduced by the war with America in the course of the year 1779, that it was found impracticable to send a sufficient force for the protection of Ireland, which was, at that time, threatened with a French invasion; and the public revenue being at the same time in so exhausted a condition as to preclude the calling out of the militia, a general authority was given by Government for the people to arm in their own defence. Ireland quickly obeyed the summons, and, in a very short time, volunteer associations were formed, and the whole nation was in arms, many of the different corps being under the command of the popular leaders of the time, who afterwards took advantage of the additional influence they thus acquired in promoting their political views. In 1784, after the failure of the attempt to establish a commercial intercourse between England and Ireland, a feeling of hostility towards this country was encouraged by the volunteers, and a general meeting was called by them at Dublin, on June 7th, for the professed purpose of procuring Parliamentary Reform. At this meeting it was agreed, "that five persons should be elected from each county, city, and large town, to meet at Dublin, on the 25th of October, in National

and hand it to you. They were the greatest, the best, and proudest names in Ireland; men who had the wisdom to reflect (before it was too late for reflection) that greatness is not to be supported by tilting at inferiors, till, by the separation of the higher from the lower orders of mankind, every distinction is swept away in the tempest of revolution; but in the happy harmonisation of the whole community—by conferring upon the people their rights—sure of receiving the auspicious return of affection, and of insuring the stability of the government, which is erected upon that just and natural basis. Gentlemen, they who put this tortured construction on conventions and delegates, know also that repeated meetings of reforming societies, both in England and Scotland, had assumed about the same time the style of conventions, and had been attended by regular delegates, long before the phrase had, or could have, any existence in France; and that upon the very model of these former associations, a formal convention was actually sitting at Edinburgh, with the Lord Chief Baron of Scotland in the chair, for promoting a reform in Parliament, at the very moment the Scotch convention, following its example, assumed that title.

"To return to this letter of the Duke of Richmond: It was written to Colonel Sharman, in answer to a letter to his Grace, desiring to know his plan of reform, which he accordingly communicated by the letter which is in evidence; and which plan was neither more nor less than that adopted by the prisoners, of surrounding Parliament (unwilling to reform its own corruptions), not by armed men, or by importunate multitudes, but by the still and universal voice of a whole people claiming their known and unalienable rights. This is so precisely the plan of the Duke of Richmond, that I have almost borrowed his expressions. His Grace says, 'The lesser reform has been attempted with every possible advantage in its favour; not only from the zealous support of the advocates for a more effectual one, but from the assistance of men of great weight, both in and out of power. But with all these temperaments and helps it has failed. Not one proselyte has been gained from corruption, nor has the least ray of hope been held out from any quarter, that the House of Commons was inclined to adopt any other mode of reform. The weight of corruption has crushed this more gentle, as it would have defeated any more efficacious plan in the same circumstances. From that quarter, therefore, I have nothing to hope. IT IS FROM THE PEOPLE AT LARGE THAT I EXPECT ANY GOOD: and I am convinced that

Congress." In pursuance of this resolution, the Sheriffs of the City of Dublin summoned a meeting to elect the delegates; but, on being informed by the Attorney-general of the illegality of the proceedings, they dissolved the Assembly. The Sheriff of the County of Dublin, and other magistrates who had presided at meetings for the same object, were prosecuted by Government, and punished by fine and imprisonment, as also were the printers and publishers of newspapers containing reports of the resolutions. The meeting, however, took place on the day appointed; but very few delegates attended, and, after two adjournments, the Congress published their resolutions, and finally dissolved; and with it expired the influence of the volunteers.

the only way to make them feel that they are really concerned in the business, is to contend for their full, clear, and indisputable rights of universal representation.' Now, how does this doctrine apply to the defence of the prisoner? I maintain that it has the most decisive application; because this book has been put into the hands of the Crown witnesses, who have one and all of them recognised it, and declared it to have been, *bonâ fide*, the plan which they pursued.

"But are the Crown's witnesses worthy of credit? If they are not, let us return home, since there is no evidence at all, and the cause is over. All the guilt, if any there be, proceeds from their testimony; if they are not to be believed, they have proved nothing; since the Crown cannot force upon you that part of the evidence which suits its purpose, and ask you to reject the other which does not. The witnesses are either entirely credible, or undeserving of all credit, and I have no interest in the alternative. This is precisely the state of the cause. For, with regard to all the evidence that is written, let it never be forgotten, that it is not upon me to defend my clients against it, but for the Crown to extract from it the materials of accusation. They do not contend that the treason is upon the surface of it, but in the latent intention; which intention must, therefore, be supported by extrinsic proof; but which is, nevertheless, directly negatived and beat down by every witness they have called, leaving them nothing but commentaries and criticisms against both fact and language, to which, for the present, I shall content myself with replying in the authoritative language of the court, in the earliest stage of their proceedings:—

"'If there be ground to consider the professed purpose of any of these associations, a reform in Parliament, as mere colour, and as a pretext held out in order to cover deeper designs—designs against the whole constitution and government of the country; the case of those embarked in such designs is that which I have already considered. Whether this be so or not is mere matter of fact; as to which I shall only remind you, that an inquiry into a charge of this nature, which undertakes to make out that the ostensible purpose is a mere veil, under which is concealed a traitorous conspiracy, requires cool and deliberate examination, and the most attentive consideration; and that the result should be perfectly clear and satisfactory. In the affairs of common life, no man is justified in imputing to another a meaning contrary to what he himself expresses, but upon the fullest evidence.' To this (though it requires nothing to support it, either in reason or authority) I desire to add the direction of Lord Chief Justice Holt to the Jury, on the trial of Sir William Perkyns:*—

* Sir William Perkyns was a violent Jacobite, and a party not only in the conspiracy for the restoration of James, mentioned ante p. 416 note, but also in a plot for the assassination of King William, on the road between Richmond and Turnham Green. The plot was discovered through some of the underlings, who were to aid in the attempt on the King's life, and Sir William Perkyns was tried for treason, and executed at Tyburn.

"'Gentlemen, it is not fit that there should be any strained or forced construction put upon a man's actions when he is tried for his life. You ought to have a full and satisfactory evidence that he is guilty, before you pronounce him so.'

"In this assimilation of the writings of the societies to the writings of the Duke of Richmond and others, I do not forget that it has been truly said by the Lord Chief Justice, in the course of this very cause, that ten or twenty men's committing crimes, furnishes no defence for other men in committing them. Certainly it does not; and I fly to no such sanctuary; but in trying the prisoner's intentions, and the intentions of those with whom he associated and acted, if I can show them to be only insisting upon the same principles that have distinguished the most eminent men for wisdom and virtue in the country, it will not be very easy to declaim or argue them into the pains of death, whilst our bosoms are glowing with admiration at the works of those very persons who would condemn them.

"Gentlemen, it has been too much the fashion of late to overlook the genuine source of all human authority, but more especially totally to forget the character of the British House of Commons as a representative of the people. Whether this has arisen from that assembly's having itself forgotten it, would be indecent for me to inquire into or to insinuate; but I shall preface the authorities which I mean to collect in support of the prisoner, with the opinion on that subject of a truly celebrated writer,* whom I wish to speak of with great respect; I should, indeed, be ashamed, particularly at this moment, to name him invidiously, whilst he is bending beneath the pressure of a domestic misfortune, which no man out of his own family laments more sincerely than I do. No difference of opinion can ever make me forget to acknowledge the sublimity of his genius, the vast reach of his understanding, and his universal acquaintance with the histories and constitutions of nations; I also disavow the introduction of the writings, with the view of involving the author in any apparent inconsistencies, which would tend, indeed, to defeat rather than to advance my purpose. I stand here to-day to claim at your hands a fair and charitable interpretation of human conduct, and I shall not set out with giving an example of uncharitableness. A man may have reason to change his opinions, or perhaps the defect may be in myself, who collect that they are changed; I leave it to God to judge of the heart—my wish is that Christian charity may prevail; —that the public harmony, which has been lost, may be restored;—that all England may re-unite in the bonds of love and affection; and that, when the Court is broken up by the acquittal of the prisoners, all heart-burnings and animosities may cease;—that, whilst yet we work in the light, we may try how we can save our country by a common effort; and that, instead of shamelessly setting one-half of society against the other by the force of armed associations, and the terrors of courts of justice, our spirits and our

* Mr. Burke, whose son was at the point of death.

strength may be combined in the glorious cause of our country. By this, I do not mean in the cause of the present war,* which I protest against as unjust, calamitous, and destructive; but this is not the place for such a subject, I only advert to it to prevent mistake or misrepresentation.

"The history and character of the English House of Commons was formerly thus described by Mr. Burke: 'The House of Commons was supposed originally to be no part of the standing government of this country, but was considered as a control issuing immediately from the people, and speedily to be resolved into the mass from whence it arose: in this respect it was in the higher part of Government what juries are in the lower. The capacity of a magistrate being transitory, and that of a citizen permanent, the latter capacity, it was hoped, would, of course, preponderate in all discussions, not only between the people and the standing authority of the Crown, but between the people and the fleeting authority of the House of Commons itself. It was hoped, that, being of a middle nature, between subject and Government, they would feel, with a more tender and a nearer interest, everything that concerned the people, that the other remoter and more permanent parts of legislature.

"'Whatever alterations time and the necessary accommodation of business may have introduced, this character can never be sustained, unless the House of Commons shall be made to bear some stamp of the actual disposition of the people at large; it would (among public misfortunes) be an evil more natural and tolerable, that the House of Commons should be infected with every epidemical frenzy of the people, as this would indicate some consanguinity, some sympathy of nature with their constituents, than that they should, in all cases, be wholly untouched by the opinions and feelings of the people out of doors. By this want of sympathy, they would cease to be a House of Commons.

"'The virtue, spirit, and essence of a House of Commons, consists in its being the express image of the feelings of the nation. It was not instituted to be a control *upon* the people, as of late it has been taught, by a doctrine of the most pernicious tendency, but as a control *for* the people.'

"He then goes on to say, that to give a technical shape, a colour, dress, and duration, to popular opinion, is the true office of a House of Commons. Mr. Burke is unquestionably correct;—the control UPON the people is the King's Majesty, and the hereditary privileges of the Peers; the balance of the State is the control FOR the people upon both, in the existence of the House of Commons; but how can that control exist FOR the people, unless they have the actual election of the House of Commons, which, it is most notorious, they have not? I hold in my hand a state of the representation which, if the thing were not otherwise notorious, I would prove to have been lately offered in proof to the House of Commons, by an honourable

* The war with France consequent on the execution of Louis XVI. See Speech of Mr. Sheridan on the subject, and notes, ante p. 163.

friend of mine now present,* whose motion I had the honour to second, where it appeared that twelve thousand people return near a majority of the House of Commons, and those, again, under the control of about two hundred. But though these facts were admitted, all redress, and even discussion, was refused. What ought to be said of a House of Commons that so conducts itself, it is not for me to pronounce; I will appeal, therefore, to Mr. Burke, who says, 'that a House of Commons, which in all disputes between the people and Administration presumes against the people, which punishes their disorders, but refuses even to inquire into their provocations, is an unnatural, monstrous state of things in the constitution.'

"But this is nothing: Mr. Burke goes on afterwards to give a more full description of Parliament, and in stronger language (let the Solicitor-general † take it down for his reply), than any that has been employed by those who are to be tried at present as conspirators against its existence. I read the passage, to warn you against considering hard words against the House of Commons as decisive evidence of treason against the King. The passage is in a well-known work, called, 'Thoughts on the Causes of the present Discontents;' and such discontents will always be present whilst their causes continue. The word PRESENT will apply just as well now, and much better than to the times when the honourable gentleman wrote his book;‡ for we are now in the heart and bowels of another war, and groaning under its additional burdens. I shall, therefore, leave it to the learned gentleman, who is to reply, to show us what has happened since our author wrote, which renders the Parliament less liable to the same observations now.

"'It must be always the wish of an unconstitutional statesman, that a House of Commons, who are entirely dependent upon him, should have every right of the people entirely dependent upon their pleasure. For it was soon discovered that the forms of a free, and the ends of an arbitrary government, were things not altogether incompatible.

"'The power of the Crown, almost dead and rotten as prerogative, has grown up anew, with much more strength and far less odium, under the name of influence: an influence which operated without noise and violence; which converted the very antagonist into the instrument of power; which contained in itself a perpetual principle of growth and renovation; and which the distresses and the prosperity of the country equally tended to augment, was an admirable substitute for a prerogative, that, being only the offspring of antiquated prejudices, had moulded in its original stamina irresistible principles of decay and dissolution.'

"What is this but saying that the House of Commons is a settled and

* Mr. (afterwards Lord) Grey, who brought forward a motion of Reform, in the session of 1792, in consequence of the resolution of the Society of Friends, of which he and Mr. Erskine were members. See ante note, p. 199.

† Sir John Mitford, afterwards Lord Redesdale. ‡ A.D. 1770.

scandalous abuse fastened *upon* the people, instead of being an antagonist power *for* their protection; an odious instrument of power in the hands of the Crown, instead of a popular balance *against* it? Did Mr. Burke mean that the prerogative of the Crown, properly understood and exercised, was an antiquated prejudice? Certainly not; because his attachment to a properly balanced monarchy is notorious. Why, then, is it to be fastened upon the prisoners, that they stigmatise monarchy, when they also exclaim *only against its corruptions?* In the same manner, when he speaks of the abuses of Parliament, would it be fair to Mr. Burke to argue, from the strict legal meaning of the expression, that he included, in the censure on Parliament, the King's person, or majesty, which is part of the Parliament? In examining the work of an author you must collect the sense of his expressions from the subject he is discussing; and if he is writing of the House of Commons as it affects the structure and efficacy of the Government, you ought to understand the word Parliament so as to meet the sense and obvious meaning of the writer. Why, then, is this common justice refused to others? Why is the word Parliament to be taken in its strictest and least obvious sense against a poor shoemaker,* or any plain tradesman at a Sheffield club, while it is interpreted in its popular, though less correct acceptation, in the works of the most distinguished scholar of the age? Add to this, that the cases are not at all similar; for Mr. Burke uses the word Parliament throughout, when he is speaking of the House of Commons; without any concomitant words which convey an explanation, but the sense of his subject; whereas Parliament is fastened upon the prisoner as meaning something beyond the House of Commons, when it can have no possible meaning beyond it; since from the beginning to the end it is joined with the words 'representation of the people.' The representation of the people in Parliament! Does not this most palpably mean the House of Commons, when we know that the people have no representation in either of the other branches of the government?

"A letter has been read in evidence from Mr. Hardy to Mr. Fox, where he says their object was universal representation. Did Mr. Fox suppose, when he received this letter, that it was from a nest of republicans, clamouring publicly for an universal representative constitution like that of France? If he had, would he have sent the answer he did, and agreed to present their petition? They wrote also to the Society of the Friends of the People, and invited them to send delegates to the Convention. The Attorney-general, who has made honourable and candid mention of that body, will not suppose that it would have contented itself with refusing the invitation in terms of cordiality and regard, if, with all the knowledge they had of their transactions, they had conceived themselves to have been invited to the formation of a body which was to overrule and extinguish all the authorities of the State: yet, upon the perversion of these two terms, Parliament and Convention,

* Hardy had been a shoemaker.

against their natural interpretation, against a similar use of them by others, and against the solemn explanation of them by the Crown's own witness, this whole fabric of terror and accusation stands for its support: letters, it seems, written to other people, are to be better understood by the gentlemen round this table, who never saw them till months after they were written, than by those to whom they were addressed and sent; and no right interpretation, forsooth, is to be expected from writings when pursued in their regular series, but they are to be made distinct by binding them up in a large volume, alongside of others totally unconnected with them, and the very existence of whose authors was unknown to one another.

"I will now, Gentlemen, resume the reading of another part of Mr. Burke, and a pretty account it is of this same Parliament: 'They who will not conform their conduct to the public good, and cannot support it by the prerogative of the Crown, have adopted a new plan. They have totally abandoned the shattered and old-fashioned fortress of prerogative, and made a lodgment in the stronghold of Parliament itself. If they have any evil design to which there is no ordinary legal power commensurate, they bring it into Parliament. There the whole is executed from the beginning to the end: and the power of obtaining their object absolute, and the safety in the proceeding perfect; no rules to confine, nor after-reckonings to terrify. For Parliament cannot, with any great propriety, punish others for things in which they themselves have been accomplices. Thus its control upon the executory power is lost.'

"This is a proposition universal. It is not that the popular control was lost under this or that administration, but, generally, that the people have no control in the House of Commons. Let any man stand up and say that he disbelieves this to be the case; I believe he would find nobody to believe him. Mr. Burke pursues the subject thus: 'The distempers of monarchy were the great subjects of apprehension and redress in the *last* century—in *this*, the distempers of Parliament.' Here the word Parliament, and the abuses belonging to it, are put in express opposition to the monarchy, and cannot, therefore, comprehend it; the distempers of Parliament, then, are objects of serious apprehension and redress. What distempers? Not of this or that year, but the habitual distempers of Parliament; and then follows the nature of the remedy, which shows that the prisoners are not singular in thinking that it is by THE VOICE OF THE PEOPLE ONLY that Parliament can be corrected. 'It is not in Parliament alone,' says Mr. Burke, 'that the remedy for Parliamentary disorders can be completed; and hardly indeed can it begin there. Until a confidence in government is re-established, the people ought to be excited to a more strict and detailed attention to the conduct of their representatives. Standards for judging more systematically upon their conduct ought to be settled in the meetings of counties and corporations, and frequent and correct lists of the voters in all important questions ought to be procured. By such means something may be done.'

"It was the same sense of the impossibility of a reform in Parliament,

without a general expression of the wishes of the people, that dictated the Duke of Richmond's letter: all the petitions in 1780* had been rejected by Parliament. This made the Duke of Richmond exclaim, that from that quarter no redress was to be expected, and that from the people alone he expected any good; and he, therefore, expressly invited them to claim and to assert an equal representation as their indubitable and unalienable birth-right—how to assert their rights, when Parliament had already refused them without even the hope, as the Duke expressed it, of listening to them any more? Could the people's rights, under such circumstances, be asserted without rebellion? Certainly they might; for rebellion is, when bands of men within a state oppose themselves by violence to the general will, as expressed or implied by the public authority; but the sense of a *whole people*, peaceably collected, and operating by its natural and certain effect upon the public councils, is not rebellion, but is paramount to, and the parent of, authority itself.

"Gentlemen, I am neither vindicating, nor speaking, the language of inflammation or discontent: I shall speak nothing that can disturb the order of the state; I am full of devotion to its dignity and tranquillity, and would not for worlds let fall an expression in this or in any other place that could lead to disturbance or disorder: but for that very reason, I speak with firmness of THE RIGHTS OF THE PEOPLE, and am anxious for the redress of their complaints; because I believe a system of attention to them to be a far better security and establishment of every part of the government, than those that are employed to preserve them. The state and government of a country rest for their support on the great body of the people; and I hope never to hear it repeated in any Court of Justice, that peaceably to convene the people upon the subject of their own privileges, can lead to the destruction of the King: they are the King's worst enemies who hold this language. It is a most dangerous principle, that the Crown is in jeopardy if the people are acquainted with their rights, and that the collecting them together to consider of them, leads inevitably to the destruction of the Sovereign. Do these gentlemen mean to say that the King sits upon his throne without the consent, and in defiance of the wishes, of the great body of his people, and that he is kept upon it by a few individuals who call themselves his friends, in exclusion of the rest of his subjects? Has the King's inheritance no deeper or wider roots than this? Yes, Gentlemen, it has—it stands upon the love of the people, who consider their own inheritance to be supported by the King's constitutional authority: this is the true prop of the throne; and the love of every people upon earth will for ever uphold a government founded, as ours is, upon reason and consent, as long as Government shall be itself attentive to the general interests which are the foundations and the ends of all human

* In this year Parliament was overwhelmed with innumerable petitions on the subject of the increasing influence of the Crown, the abuse of prerogative, and the rights of the people.

authority. Let us banish, then, these unworthy and impolitic fears of an unrestrained and an enlightened people: let us not tremble at the rights of man, but, by giving to men their rights, secure their affections; and, through their affections, their obedience. Let us not broach the dangerous doctrine, that the rights of kings and of men are incompatible. Our government at the Revolution began upon their harmonious incorporation; and Mr. Locke defended King William's title upon no other principle than the rights of man. It is from the revered work of Mr. Locke, and not from the revolution in France, that one of the papers in the evidence, the most stigmatised, most obviously flowed; for it is proved that Mr. Yorke held in his hand Mr. Locke upon Government, when he delivered his speech on the Castle Hill at Sheffield,* and that he expatiated largely upon it: well, indeed, might the witness say he expatiated largely, for there are many well-selected passges taken verbatim from the book; and here, in justice to Mr. White,† let me notice the fair and honourable manner in which, in the absence of the clerk, he read this extraordinary performance. He delivered it not merely with distinctness, but in a manner so impressive, that, I believe, every man in Court was affected by it.

"Gentlemen, I am not driven to defend every expression; some of them are improper undoubtedly, rash and inflammatory; but I see nothing in the whole taken together, even if it were connected with the Prisoner, that goes at all to an evil purpose in the writer. But Mr. Attorney-general has remarked upon this proceeding at Sheffield (and whatever falls from a person of his rank and just estimation, deserves great attention)—he has remarked that it is quite apparent they had resolved not to petition: they had certainly resolved not *at that season* to petition, and that seems the utmost which can be maintained from the evidence. But supposing they had negatived the measure altogether; is there no way by which the people may actively associate for the purposes of a reform in Parliament, but to consider of a petition to the House of Commons? Might they not legally assemble to consider the state of their liberties, and the conduct of their representatives? Might they not legally form Conventions or Meetings (for the name is just nothing) to adjust a plan of rational union for a wise choice of representatives when Parliament should be dissolved? May not the people meet to consider their interests preparatory to, and independently of, a petition for any specific object? My friend seems to consider the House of Commons as a substantive and permanent part of the constitution; he seems to forget that the Parliament dies a natural death—that the people then re-enter into their rights, and that the exercise of them is the most important duty that can belong to social man. How are such duties to be exercised with effect, on momentous occasions, but by concert and communion? May not the people, assembled in their elective

* Mr. Yorke was a member of the London Corresponding Society, and was appointed a Delegate from that society to similar societies at Sheffield and other places.

† The Solicitor to the Treasury.

districts, resolve to trust no longer those by whom they have been betrayed? May they not resolve to vote for no man who contributed by his voice to this calamitous war, which has thrown such grievous and unnecessary burdens upon them? May they not say, 'We will not vote for those who deny we are their constituents, nor for those who question our clear and natural right to be equally represented?' Since it is illegal to carry up petitions, and unwise to transact any public business attended by multitudes, because it tends to tumult and disorder, may they not, for that very reason, depute, as they have done, the most trusty of their societies to meet with one another to consider, without the specific object of petitions, how they may claim, by means which are constitutional, their imprescriptible rights?

"And here I must advert to an argument employed by the Attorney-general, that the views of the societies towards universal suffrage, carried in themselves (however sought to be effected) an implied force upon Parliament; for that, supposing by invading it with the vast pressure, not of the public arm, but of the public sentiment of the nation, the influence of which upon that assembly is admitted ought to be weighty, it could have prevailed upon the Commons to carry up a bill to the King for universal representation and annual Parliaments, his Majesty was bound to reject it; and could not, without a breach of his coronation oath, consent to pass it into an act; I cannot conceive where my friend met with this law, or what he can possibly mean by asserting that the King cannot, consistently with his coronation oath, consent to any law that can be stated or imagined, presented to him as the act of the two Houses of Parliament. He could not, indeed, consent to a bill sent up to him framed by a convention of delegates assuming legislative functions; and if my friend could have proved that the societies, sitting as a Parliament, had sent up such a bill to his Majesty, I should have thought the prisoner, as a member of such a parliament, was at least in a different situation from that in which he stands at present; but as this is not one of the chimeras whose existence is contended for, I return back to ask, upon what authority it is maintained, that universal representation and annual Parliaments could not be consented to by the King, in conformity to the wishes of the other branches of the Legislature: on the contrary, one of the greatest men that this country ever saw, considered universal representation to be such an inherent part of the constitution, as that the King himself might grant it by his prerogative, even without the Lords and Commons; and I have never heard the position denied upon any other footing than the Union with Scotland. But be that as it may, it is enough for my purpose that the maxim, that the King might grant universal representation, as a right before inherent in the whole people to be represented, stands upon the authority of Mr. Locke, the man, next to Sir Isaac Newton, of the greatest strength of understanding that England, perhaps, ever had; high, too, in the favour of King William, and enjoying one of the most exalted offices in the state.* Mr. Locke says, Book II., c. xiii., sect. 157 and 158:—'Things of

* He was one of the Commissioners of Trade and Plantations.

this world are in so constant a flux, that nothing remains long in the same state. Thus people, riches, trade, power, change their stations, flourishing mighty cities come to ruin, and prove, in time, neglected desolate corners, whilst other unfrequented places grow into populous countries, filled with wealth and inhabitants. But things not always changing equally, and private interest often keeping up customs and privileges, when the reasons of them are ceased, it often comes to pass, that in governments, where part of the legislative consists of representatives chosen by the people, that, in tract of time, this representation becomes very unequal and disproportionate to the reasons it was at first established upon. To what gross absurdities the following of custom, when reason has left it, may lead, we may be satisfied, when we see the bare name of a town, of which there remains not so much as the ruins, where scarce so much housing as a sheep-cote, or more inhabitants than a shepherd, is to be found, sends as many representatives to the grand assembly of law-makers, as a whole county, numerous in people and powerful in riches.* This, strangers stand amazed at, and every one must confess needs a remedy.'

"'*Salus populi suprema lex*, is certainly so just and fundamental a rule, that he who sincerely follows it, cannot dangerously err. If, therefore, the executive, who has the power of convoking the legislative, observing rather the true proportion, than fashion of representation, regulates, not by old custom, but by true reason, the number of members in all places that have a right to be distinctly represented, which no part of the people, however incorporated, can pretend to, but in proportion to the assistance which it affords to the public, it cannot be judged to have set up a new legislative, but to have restored the old and true one, and to have rectified the disorders which succession of time had insensibly, as well as inevitably, introduced; for it being the interest as well as intention of the people to have fair and equal representation, whoever brings it nearest to that, is an undoubted friend to, and establisher of, the Government, and cannot miss the consent and approbation of the community; prerogative being nothing but a power, in the hands of the Prince, to provide for the public good, in such cases, which, depending upon unforeseen and uncertain occurrences, certain and unalterable laws could not safely direct; whatsoever shall be done manifestly for the good of the people, and the establishing the Government upon its true foundations, is, and always will be, just prerogative. Whatsoever cannot but be acknowledged to be of advantage to the society, and people in general, upon just and lasting measures, will always, when done, justify itself; and whenever the people shall choose

* Mr. Locke alluded to Old Sarum, in Wiltshire, in which a few fragments of foundation walls are the only traces of a town ever having existed. It was totally deserted in the reign of Henry VIII., but yet, up to the passing of the Reform Bill, in 1832, when the borough was disfranchised, Old Sarum was represented in Parliament.

their representatives upon just and undeniably equal measures, suitable to the original frame of the Government, it cannot be doubted to be the will and act of the society, whoever permitted or caused them so to do.' But as the very idea of universal suffrage seems now to be considered not only to be dangerous to, but absolutely destructive of, monarchy, you certainly ought to be reminded that the book which I have been reading, and which my friend kindly gives me a note to remind you of, was written by its immortal author in defence of King William's title to the Crown; and when Dr. Sacheverel ventured to broach those doctrines of power and non-resistance, which, under the same establishments, have now become so unaccountably popular, he was impeached* by the people's representatives for denying their rights, which had been asserted and established at the glorious era of the Revolution.

"Gentlemen, if I were to go through all the matter which I have collected upon this subject, or which obtrudes itself upon my mind, from common reading, in a thousand directions, my strength would fail long before my duty was fulfilled. I had very little when I came into court, and I have abundantly less already; I must, therefore, manage what remains to the best advantage. I proceed, therefore, to take a view of such parts of the evidence as appear to me to be the most material for the proper understanding of the case; I have had no opportunity of considering it, but in the interval which the indulgence of the Court, and your own, has afforded me, and that has been for a very few hours this morning: but it occurred to me, that the best use I could make of the time given to me was, if possible, to disembroil this chaos; to throw out of view everything irrelevant, which only tended to bring chaos back again; to take what remained in order of time; to select certain stages and resting-places; to review the effect of the transactions, as brought before us, and then to see how the written evidence is explained by the testimony of the witnesses who have been examined.

"The origin of the Constitutional Society not having been laid in evidence before you, the first thing, both in point of date, and as applying to show the objects of the different bodies, is the original address and resolution of the Corresponding Society on its first institution, and when it first began to correspond with the other, which had formerly ranked amongst its members so many illustrious persons; and before we look to the matter of this institution, let us recollect that the objects of it were given without reserve to the public, as containing the principles of the association; and I may begin with demanding, whether the annals of this country, or, indeed, the universal history of mankind, afford an instance of a plot and conspiracy voluntarily given up in its very infancy to Government, and the whole public, and of

* A.D. 1709. Being found guilty, he was prohibited from preaching for three years, and his two sermons, which had given so much offence, were ordered to be burnt by the common hangman. The famous decree passed in the convocation of the University of Oxford, asserting the absolute authority and indefeasible right of princes, was also ordered to be, in like manner, committed to the flames.

which, to avoid the very thing that has happened, the arraignment of conduct at a future period, and the imputation of secresy where no secret was intended, a regular notice by letter was left with the Secretary of State, and a receipt taken at the public office, as a proof of the publicity of their proceeding, and the sense they entertained of their innocence. For the views and objects of the society, we must look to the institution itself, which you are, indeed, desired to look at by the Crown ; for their intentions are not considered as deceptions in this instance, but as plainly revealed by the very writing itself.

"Gentlemen, there was a sort of silence in the Court—I do not say an affected one, for I mean no possible offence to any one,—but there seemed to be an effect expected from beginning, not with the address itself, but with the very bold motto to it, though in verse :

> " Unblest by virtue, Government a league
> Becomes, a circling junto of the great
> To rob by law ; Religion mild, a yoke
> To tame the stooping soul, a trick of State
> To mask their rapine, and to share the prey.
> Without it, what are senates, but a face
> Of consultation deep and reason free,
> While the determin'd voice and heart are sold ?
> What, boasted freedom, but a sounding name ?
> And what election, but a market vile,
> Of slaves self-barter'd ?"

" I almost fancy I heard them say to me, What think you of that to set out with ? Show me the parallel of that.—Gentlemen, I am sorry, for the credit of the age we live in, to answer, that it is difficult to find the parallel ; because the age affords no such poet as he who wrote it :—these are the words of Thomson ; and it is under the banners of his proverbial benevolence, that these men are supposed to be engaging in plans of anarchy and murder ; under the banners of that great and good man, whose figure you may still see in the venerable shades of Hagley, placed there by the virtuous, accomplished, and public-spirited Lyttelton : the very poem, too, written under the auspices of his Majesty's Royal Father, when heir-apparent to the crown of Great Britain, nay, within the very walls of Carlton House, which afforded an asylum to matchless worth and genius in the person of this great poet : it was under the roof of A PRINCE OF WALES that the poem of LIBERTY was written ;—and what better return could be given to a Prince for his protection, than to blazon, in immortal numbers, the only sure title to the Crown he was to wear—THE FREEDOM OF THE PEOPLE OF GREAT BRITAIN ? And it is to be assumed, forsooth, in the year 1794, that the unfortunate prisoner before you was plotting treason and rebellion, because, with a taste and feeling beyond his humble station, his first proceeding was ushered into view, under the hallowed sanction of this admirable person, the friend and the defender of the British constitution ; whose countrymen are preparing at this moment (may my name descend amongst them to the latest posterity !) to

do honour to his immortal memory. Pardon me, Gentlemen, for this desultory digression—I must express myself as the current of my mind will carry me.

"If we look at the whole of the institution itself, it exactly corresponds with the plan of the Duke of Richmond, as expressed in the letters to Colonel Sharman, and to the High Sheriff of Sussex: this plan they propose to follow, in a public address to the nation, and all their resolutions are framed for its accomplishment; and I desire to know in what they have departed from either, and what they have done which has not been done before, without blame or censure, in the pursuance of the same object. I am not speaking of the libels they may have written, which the law is open to punish, but what part of their conduct has, as applicable to the subject in question, been unprecedented. I have, at this moment, in my eye, an honourable friend of mine, and a distinguished member of the House of Commons, who, in my own remembrance, I believe in 1780, sat publicly at Guildhall, with many others, some of them magistrates of the city, as a convention of delegates, for the same objects; and, what is still more in point, just before the convention began to meet at Edinburgh, whose proceedings have been so much relied on, there was a convention regularly assembled, attended by the delegates from all the counties of Scotland, for the express and avowed purpose of altering the constitution of Parliament; not by rebellion, but by the same means employed by the prisoner. The Lord Chief Baron of Scotland sat in the chair, and was assisted by some of the first men in that country, and, amongst others, by an honourable person to whom I am nearly allied, who is at the very head of the Bar in Scotland, and most avowedly attached to the law and the constitution.*

"These gentlemen, whose good intentions never fell into suspicion, had presented a petition for the alteration of election laws, which the House of Commons had rejected, and on the spur of that very rejection they met in a convention at Edinburgh, in 1793; and the style of their first meeting was, 'A Convention of Delegates, chosen from the Counties of Scotland, *for altering and amending the Laws concerning Elections*'—not for considering how they might be best amended—not for petitioning Parliament to amend them; but for altering and amending the election laws. These meetings were regularly published, and I will prove that their first resolution, as I have read it to you, was brought up to London, and delivered to the editor of the 'Morning Chronicle' by Sir Thomas Dundas, lately created a peer of Great Britain, and paid for by him as a public advertisement. Now, suppose any man had imputed treason or sedition to these honourable persons, what would have been the consequence? They would have been considered as infamous libellers and traducers, and deservedly hooted out of civilised life. Why, then, are different constructions to be put upon similar transactions?

* The Hon. Henry Erskine, Mr. Erskine's brother, then Dean of the Faculty of Advocates, at Edinburgh.

Why is everything to be held up as *bonâ fide* when the example is set, and *malâ fide* when it is followed? Why have I not as good a claim to take credit for honest purpose in the poor man I am defending, against whom not a contumelious expression has been proved, as when we find the same expressions in the mouths of the Duke of Richmond or Mr. Burke? I ask nothing more from this observation, than that a sober judgment may be pronounced from the quality of the acts which can be fairly established; each individual standing responsible only for his own conduct, instead of having our imaginations tainted with cant phrases, and a farago of writings and speeches, for which the prisoner is not responsible, and for which the authors, if they be criminal, are liable to be brought to justice.

"But it will be said, Gentlemen, that all the constitutional privileges of the people are conceded—that their existence was never denied or invaded—and that their right to petition and to meet for the expression of their complaints, founded or unfounded, was never called in question; these, it will be said, are the rights of subjects—but that the rights of man are what alarms them: every man is considered as a traitor who talks about the rights of man; but this bugbear stands upon the same perversion with its fellows.

"The rights of man are the foundation of all government, and to secure them is the only reason of men's submitting to be governed. It shall not be fastened upon the unfortunate prisoner at the bar, nor upon any other man, that because these natural rights were asserted in France, by the destruction of a government which oppressed and subverted them, a process happily effected here by slow and imperceptible improvements, that, therefore, they can only be so asserted in England, where the government, through a gradation of improvement, is well calculated to protect them. We are, fortunately, not driven in this country to the terrible alternatives which were the unhappy lot of France, because we have had a happier destiny in the forms of a free constitution: this, indeed, is the express language of many of the papers before you, that have been complained of; particularly in one alluded to by the Attorney-general, as having been written by a gentleman with whom I am particularly acquainted; and though in that spirited composition there are, perhaps, some expressions proceeding from warmth which he may not desire me critically to justify, yet I will venture to affirm, from my own personal knowledge, that there is not a man in Court more honestly public-spirited and zealously devoted to the constitution of King, Lords, and Commons, than the honourable gentleman I allude to (Felix Vaughan, Esq., barrister-at-law): it is the phrase, therefore, and not the sentiment expressed by it, that can alone give justifiable offence. It is, it seems, a *new* phrase commencing in revolutions, and never used before in discussing the rights of British subjects, and therefore can only be applied in the sense of those who framed it;—but this is so far from being the truth that the very phrase sticks in my memory, from the memorable application of it to the rights of subjects, under this and every other establishment, by a

gentleman whom you will not suspect of using it in any other sense. The rights of man were considered by Mr. Burke, at the time that the great uproar was made upon a supposed invasion of the East India Company's charter, to be the foundation of, and paramount to, all the laws and ordinances of a state:—the ministry, you may remember, were turned out for Mr. Fox's India Bill,* which their opponents termed an attack upon the chartered rights of man, or, in other words, upon the abuses supported by a monopoly in trade. Hear the sentiments of Mr. Burke, when the natural and chartered rights of men are brought into contest. Mr. Burke, in his speech in the House of Commons, expressed himself thus: 'The first objection is, that the bill is an attack on the chartered rights of men.—As to this objection, I must observe that the phrase, "the chartered rights *of men*," is full of affectation; and very unusual in the discussion of privileges conferred by charters of the present description. But it is not difficult to discover what end that ambiguous mode of expression, so often reiterated, is meant to answer.

"'The rights of men, that is to say, the natural rights of mankind, are indeed sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be set up against it. And if these natural rights are further affirmed and declared by express covenants, clearly defined and secured against chicane, power, and authority, by written instruments and positive engagements, they are in a still better condition: they then partake not only of the sanctity of the object so secured, but of that solemn public faith itself, which secures an object of such importance. Indeed, this formal recognition, by the sovereign power, of an original right in the subject, can never be subverted, but by rooting up the holding radical principles of government, and even of society itself.'

"The Duke of Richmond also, in his public letter to the High Sheriff of Sussex, rests the rights of the people of England upon the same horrible and damnable principle of the rights of man. Let Gentlemen, therefore, take care they do not pull down the very authority which they come here to support;—let them remember, that his Majesty's family was called to the throne upon the very principle, that the ancient kings of this country had violated these sacred trusts;—let them recollect, too, in what the violation was charged to exist: it was charged by the Bill of Rights to exist in cruel and infamous trials, in the packing of juries, and in disarming the people, whose arms are their unalienable refuge against oppression. But did the people of England assemble to make this declaration? No! because it was unnecessary. The sense of the people, against a corrupt and scandalous government, dissolved it, by almost the ordinary forms by which the old government itself was administered. King William sent his writs to those who had sat in the former Parliament: but, will any man, therefore, tell me,

* See Introduction to Speech of Mr. Sheridan, ante p. 93.

that that Parliament re-organised the government without the will of the people? and, that it was not their consent which entailed on King William a particular inheritance, to be enjoyed under the dominion of the law? Gentlemen, it was the denial of these principles, asserted at the Revolution in England, that brought forward the author of the Rights of Man, and stirred up this controversy which has given such alarm to government. But for this, the literary labours of Mr. Paine had closed. He asserts it himself in his book, and everybody knows it. It was not the French revolution, but Mr. Burke's Reflections upon it, followed up by another work on the same subject, as it regarded things in England, which brought forward Mr. Paine, and which rendered his works so much the object of attention in this country. Mr. Burke denied positively the very foundation upon which the Revolution of 1688 must stand for its support, *viz.*, the right of the people to change their government; and he asserted, in the teeth of his Majesty's title to the Crown, that no such right in the people existed;—this is the true history of the Second Part of the 'Rights of Man.' The First Part had little more aspect to this country than to Japan; it asserted the right of the people of France to act as they had acted, but there was little which pointed to it as an example for England. There had been a despotic authority in France, which the people had thrown down, and Mr. Burke seemed to question their right to do so:—Mr. Paine maintained the contrary in his answer; and, having imbibed the principles of republican government during the American revolution, he mixed with the controversy many coarse and harsh remarks upon monarchy, as established even in England, or in any possible form. But this was collateral to the great object of his work, which was to maintain the right of the people to choose their government;—this was the right which was questioned, and the assertion of it was most interesting to many who were most strenuously attached to the English government. For men may assert the right of every people to choose their government, without seeking to destroy their own. This accounts for many expressions imputed to the unfortunate prisoners, which I have often uttered myself, and shall continue to utter every day of my life, and call upon the spies of Government to record them. I will say anywhere, without fear,—nay, I will say here, where I stand, that an attempt to interfere, by despotic combination and violence, with any government which a people choose to give to themselves, whether it be good or evil, is an oppression and subversion of the natural and unalienable rights of man; and though the government of this country should countenance such a system, it would not only be still legal for me to express my detestation of it, as I here deliberately express it, but it would become my interest and my duty. For, if combinations of despotism can accomplish such a purpose, who shall tell me, what other nation shall not be the prey of their ambition? Upon the very principle of denying to a people the right of governing themselves, how are we to resist the French, should they attempt by violence to fasten their government upon us? Or what inducement would there be for resistance to

preserve laws, which are not, it seems, our own, but which are unalterably imposed upon us? The very argument strikes, as with a palsy, the arm and vigour of the nation. I hold dear the privileges I am contending for, not as privileges hostile to the constitution, but as necessary for its preservation; and if the French were to intrude by force upon the government of our own free choice, I should leave these papers, and return to a profession that, perhaps, I better understand.*

"The next evidence relied on, after the institution of the Corresponding Society, is a letter written to them from Norwich, dated the 11th of November 1792, with the answer, dated the 26th of the same month. It is asserted, that this correspondence shows, they aimed at nothing less than the total destruction of the monarchy, and that they, therefore, veil their intention under covert and ambiguous language. I think, on the other hand, and I shall continue to think so, as long as I am capable of thought, that it was impossible for words to convey more clearly the explicit avowal of their original plan for a constitutional reform in the House of Commons. This letter from Norwich, after congratulating the Corresponding Society on its institution, asks several questions arising out of the proceedings, of other societies in different parts of the kingdom, which they profess not thoroughly to understand.

"The Sheffield people (they observe) seemed at first determined to support the Duke of Richmond's plan only, but that they had afterwards observed a disposition in them to a more moderate plan of reform proposed by the Friends of the People in London; whilst the Manchester people, by addressing Mr. Paine (whom the Norwich people had not addressed), seemed to be intent on republican principles only; they therefore put a question, not at all of distrust or suspicion, but *bonâ fide*, if ever there was good faith between men, whether the Corresponding Society meant to be satisfied with the plan of the Duke of Richmond? or, whether it was their private design to rip up monarchy by the roots, and place democracy in its stead? Now, hear the answer, from whence it is inferred that this last is their intention: they begin their answer with recapitulating the demand of their correspondent, as regularly as a tradesman, who has had an order for goods, recapitulates the order, that there may be no ambiguity in the reference or application of the reply, and then they say, as to the objects they have in view they refer them to their addresses. 'You will thereby see that they mean to disseminate political knowledge, and thereby engage the judicious part of the nation to demand the recovery of their lost rights in annual Parliaments; the members of these Parliaments owing their election to unbought suffrages.'* They then desire them to be careful to avoid all dispute, and say to them, Put monarchy, democracy, and even religion, quite aside; and 'Let your endeavours go to increase the numbers of those who desire a full and equal representation of the people, and leave to a Parliament, so chosen, to reform all existing

* Mr. Erskine had served successively in the navy and army, before studying for the law; as previously mentioned in the memoir of his life.

abuses ; and if they don't answer, at the year's end, you may choose others in their stead.' The Attorney-general says, this is lamely expressed; I, on the other hand, say, that it is not only not lamely expressed, but anxiously worded to put an end to dangerous speculations.—Leave all theories undiscussed; do not perplex yourselves with abstract questions of government; endeavour practically to get honest representatives,—and if they deceive you—then, what?—bring on a revolution? No! Choose others in their stead. They refer also to their address, which lay before their correspondent, which address expresses itself thus: 'Laying aside all claim to originality, we claim no other merit than that of reconsidering and verifying what has already been urged in our common cause by the Duke of Richmond and Mr. Pitt, and their then honest party.'

"When the language of the letter, which is branded as ambiguous, thus stares them in the face as an undeniable answer to the charge, they then have recourse to the old refuge of *mala fides;* all this, they say, is but a cover for hidden treason. But I ask you, Gentlemen, in the name of God, and as fair and honest men, what reason upon earth there is to suppose, that the writers of this letter did not mean what they expressed? Are you to presume, in a Court of Justice, and upon a trial for life, that men write with duplicity in their most confidential correspondence, even to those with whom they are confederated? Let it be recollected also, that if this correspondence was calculated for deception, the deception must have been understood and agreed upon by all parties concerned; for otherwise you have a conspiracy amongst persons who are at cross purposes with one another: consequently, the conspiracy, if this be a branch of it, is a conspiracy of thousands and ten thousands, from one end of the kingdom to the other, who are all guilty, if any of the Prisoners are guilty. Upwards of forty thousand persons, upon the lowest calculation, must alike be liable to the pains and penalties of the law, and hold their lives as tenants-at-will of the Ministers of the Crown.—In whatever aspect, therefore, this prosecution is regarded, new difficulties and new uncertainties and terrors surround it.

"The next thing in order which we have to look at, is the Convention at Edinburgh. It appears that a letter had been written by Mr. Skirving,* who was connected with reformers in Scotland, proceeding avowedly upon the Duke of Richmond's plan, proposing that there should be a Convention from the societies assembled at Edinburgh. Now, you will recollect, in the opening, that the Attorney-general considered all the great original sin of this conspiracy and treason to have originated with the societies in London; that the country societies were only tools in their hands, and that the Edinburgh Convention was the commencement of their projects; and yet it plainly appears, that this Convention originated from neither of the London

* The Secretary to the Convention. He, together with Maurice Margarot and Joseph Gerald (two of the London delegates), was arrested at Edinburgh, in 1794, for sedition: all of them were found guilty, and sentenced to fourteen years' transportation. All his papers were seized by the magistrate at the same time.

societies, but had its beginning at Edinburgh, where, just before, a Convention had been sitting for the reform in Parliament, attended by the principal persons in Scotland; and, surely, without adverting to the nationality so peculiar to the people of that country, it is not at all suspicious, that, since they were to hold a meeting for similar objects, they should make use of the same style for their association; and that their deputies should be called delegates, when delegates had attended the other Convention from all the counties, and whom they were every day looking at in their streets, in the course of the very same year that Skirving wrote his letter on the subject. The views of the Corresponding Society, as they regarded this Convention, and consequently the views of the prisoner, must be collected from the written instructions to the delegates, unless they can be falsified by matter which is collateral. If I constitute an agent, I am bound by what he does, but always with this limitation—for what he does within the scope of his agency: if I constitute an agent to buy horses for me, and he commits high treason, it will not, I hope, be argued, that I am to be hanged. If I constitute an agent for any business that can be stated, and he goes beyond his instructions, he must answer for himself beyond their limits; for beyond them he is not my representative. The acts done, therefore, at the Scotch Convention, whatever may be their quality, are evidence to show, that, in point of fact, a certain number of people got together, and did anything you choose to call illegal; but, as far as it concerns me, if I am not present, you are limited by my instructions, and have not advanced a single step upon your journey to convict me: the instructions to Skirving have been read, and speak for themselves; they are strictly legal, and pursue the avowed object of the Society; and it will be for the Solicitor-general to point out, in his reply, any counter or secret instructions, or any collateral conduct, contradictory of the good faith with which they were written. The instructions are in these words: 'The delegates are instructed, on the part of this Society, to assist in bringing forward and supporting any *constitutional* measure for procuring a real representation of the Commons of Great Britain.' What do you say, Gentlemen, to this language? How are men to express themselves who desire a constitutional reform? The object and the mode of effecting it were equally legal: this is most obvious from the conduct of the Parliament of Ireland, acting under directions from England; they passed the Convention Bill, and made it only a misdemeanour, knowing that, by the law as it stood, it was no misdemeanour at all. Whether this statement may meet with the approbation of others, I care not; I know the fact to be so, and I maintain that you cannot prove upon the Convention which met at Edinburgh, and which is charged to-day with high treason, one-thousandth part of what, at last, worked up government in Ireland to the pitch of voting it a misdemeanour.

"Gentlemen, I am not vindicating anything that can promote disorder in the country, but I am maintaining that the worst possible disorder that can fall upon a country is, when subjects are deprived of the sanction of clear

and unambiguous laws. If wrong is committed, let punishment follow according to the measure of that wrong: if men are turbulent, let them be visited by the laws according to the measure of their turbulency: if they write libels upon Government, let them be punished according to the quality of those libels: but you must not, and will not, because the stability of the monarchy is an important concern to the nation, confound the nature and distinctions of crimes, and pronounce that the life of the Sovereign has been invaded, because the privileges of the people have been, perhaps, irregularly and hotly asserted: you will not, to give security to Government, repeal the most sacred laws instituted for our protection, and which are, indeed, the only consideration for our submitting at all to Government. If the plain letter of the statute of Edward III. applies to the conduct of the prisoners, let it in God's name be applied; but let neither their conduct, nor the law that is to judge it, be tortured by construction; nor suffer the transaction, from whence you are to form a dispassionate conclusion of intention, to be magnified by scandalous epithets, nor overwhelmed in an undistinguishable mass of matter, in which you may be lost and bewildered, having missed the only parts which could have furnished a clue to a just or rational judgment.

"Gentlemen, this religious regard for the liberty of the subject, against constructive treason, is well illustrated by Dr. Johnson, the great author of our English Dictionary, a man remarkable for his love of order, and for high principles of government, but who had the wisdom to know that the great end of government, in all its forms, is the security of liberty and life under the law. This man, of masculine mind, though disgusted at the disorder which Lord George Gordon created, felt a triumph in his acquittal, and exclaimed, as we learn from Mr. Boswell, 'I hate Lord G. Gordon, but I am glad he was not convicted of this constructive treason; for, though I hate him, I love my country and myself.' This extraordinary man, no doubt, remembered, with Lord Hale, that, when the law is broken down, injustice knows no bounds, but runs as far as the wit and invention of accusers, or the detestation of persons accused, will carry it. You will pardon this almost perpetual recurrence to these considerations; but the present is a season when I have a right to call upon you by everything sacred in humanity and justice —by every principle which ought to influence the heart of man, to consider the situation in which I stand before you. I stand here for a poor, unknown, unprotected individual, charged with a design to subvert the government of the country, and the dearest rights of its inhabitants—a charge which has collected against him a force sufficient to crush to pieces any private man—the whole weight of the crown presses upon him; Parliament has been sitting upon *ex-parte* evidence for months together; and rank and property is associated, from one end of the kingdom to the other, to avert the supposed consequences of the treason. I am making no complaint of this; but surely it is an awful summons to impartial attention; surely it excuses me for so often calling upon your integrity and firmness to do equal justice between the crown, so supported, and an unhappy prisoner, so unprotected.

"Gentlemen, I declare that I am utterly astonished, on looking at the clock, to find how long I have been speaking; and that, agitated and distressed as I am, I have yet strength enough remaining for the remainder of my duty. At every peril of my health it shall be exerted: for although, if this cause should miscarry, I know I shall have justice done me for the honesty of my intentions; yet what is that to the public and posterity? What is it to them, when, if upon this evidence there can stand a conviction for high treason, it is plain that no man can be said to have a life which is his own? For how can he possibly know by what engines it may be snared, or from what unknown sources it may be attacked and overpowered? Such a monstrous precedent would be as ruinous to the King as to his subjects. We are in a crisis of our affairs; which, putting justice out of the question, calls in sound policy for the greatest prudence and moderation. At a time when other nations are disposed to subvert their establishments, let it be our wisdom to make the subject feel the practical benefits of our own: let us seek to bring good out of evil: the distracted inhabitants of the world will fly to us for sanctuary, driven out of their countries from the dreadful consequences of not attending to seasonable reforms in government—victims to the folly of suffering corruptions to continue, till the whole fabric of society is dissolved and tumbles into ruin. Landing upon our shores, they will feel the blessing of security, and they will discover in what it consists: they will read this trial, and their hearts will palpitate at your decision. They will say to one another—and their voices will reach to the ends of the earth,—'May the constitution of England endure for ever! the sacred and yet remaining sanctuary for the oppressed! Here, and here only, the lot of man is cast in security! What though authority, established for the ends of justice, may lift itself up against it! What though the House of Commons itself should make an *ex-parte* declaration of guilt! What though every species of art should be employed to entangle the opinions of the people, which in other countries would be inevitable destruction; yet, in England, in enlightened England, all this will not pluck a hair from the head of innocence—the Jury will still look steadfastly to the law, as the great polar star, to direct them in their course: as prudent men they will set no example of disorder, nor pronounce a verdict of censure on authority, or of approbation or disapprobation beyond their judicial province: but, on the other hand, they will make no political sacrifice, but deliver a plain, honest man, from the toils of injustice.' When your verdict is pronounced, this will be the judgment of the world; and if any amongst ourselves are alienated in their affections to Government, nothing will be so likely to reclaim them. They will say, Whatever we have lost of our control in Parliament, we have yet a sheet-anchor remaining to hold the vessel of the state amidst contending storms: we have still, thank God, a sound administration of justice secured to us, in the independence of the Judges, in the rights of enlightened juries, and in the integrity of the Bar—ready at all times, and upon every possible occasion, whatever may be

the consequences to themselves, to stand forward in defence of the meanest man in England, when brought for judgment before the laws of the country.

"To return to this Scotch convention. Their papers were all seized by Government. What their proceedings were, they best know: we can only see what parts they choose to show us: but, from what we have seen, does any man seriously believe, that this meeting at Edinburgh meant to assume and to maintain by force all the functions and authorities of the State? Is the thing within the compass of human belief? If a man were offered a dukedom, and twenty thousand pounds a year for trying to believe it, he might say he believed it, as what will not man say for gold and honours? but he never in fact could believe that this Edinburgh meeting was a Parliament for Great Britain:—how, indeed, could he, from the proceedings of a few peaceable, unarmed men, discussing, in a constitutional manner, the means of obtaining a reform in Parliament; and who, to maintain the club, or whatever you choose to call it, collected a little money from people who were well disposed to the cause; a few shillings one day, and perhaps as many pence another? I think, as far as I could reckon it up, when the report, from this great committee of supply, was read to you, I counted that there had been raised, in the first session of this Parliament, fifteen pounds, from which indeed you must deduct two bad shillings, which are literally noticed in the account. Is it to be endured, Gentlemen, that men should gravely say, that this body assumed to itself the offices of Parliament?—that a few harmless people, who sat, as they profess, to obtain a full representation of the people, were themselves, even in their own imaginations, the complete representation which they sought for? Why should they sit from day to day to consider how they might obtain what they had already got? If their object was a universal representation of the whole people, how is it credible they could suppose that universal representation to exist in themselves—in the representatives of a few Societies, instituted to obtain it for the country at large? If they were themselves the nation, why should the language of every resolution be, that reason ought to be their grand engine for the accomplishment of their object, and should be directed to convince the nation to speak to Parliament in a voice that must be heard? The proposition, therefore, is too gross to cram down the throats of the English people, and this is the prisoner's security. Here, again, he feels the advantage of our free administration of justice: this proposition, on which so much depends, is not to be reasoned upon on parchment, to be delivered privately to magistrates for private judgment: no—he has the privilege of appealing aloud, as he now appeals by me, to an enlightened assembly, full of eyes, and ears, and intelligence, where speaking to a Jury is, in a manner, speaking to a nation at large, and flying for sanctuary to its universal justice.

"Gentlemen, the very work of Mr. Paine, under the banners of which this supposed rebellion was set on foot, refutes the charge it is brought for-

ward to support; for Mr. Paine, in his preface, and throughout his whole book, reprobates the use of force against the most evil governments; the contrary was never imputed to him. If his book had been written in pursuance of the design of force and rebellion, with which it is now sought to be connected, he would, like the prisoners, have been charged with an overt act of high treason; but such a proceeding was never thought of. Mr. Paine was indicted for a misdemeanour,* and the misdemeanour was argued to consist not in the falsehood, that a nation has no right to choose or alter its Government, but in seditiously exciting the nation, without cause, to exercise that right. A learned lord (Lord Chief Baron Macdonald), now on this Bench, addressed the Jury as Attorney-general upon this principle; his language was this: 'The question is not, what the people have a right to do, for the people are, undoubtedly, the foundation and origin of all government; but the charge is, for seditiously calling upon the people, without cause or reason, to exercise a right which would be sedition, supposing the right to be in them; for though the people might have a right to do the thing suggested, and though they are not excited to the doing it by force and rebellion, yet, as the suggestion goes to unsettle the State, the propagation of such doctrines is seditious. There is no other way, undoubtedly, of describing that charge. I am not here entering into the application of it to Mr. Paine, whose counsel I was, and who has been tried already. To say that the people have a right to change their government, is, indeed, a truism; everybody knows it, and they exercised the right, otherwise the King could not have had his establishment amongst us. If, therefore, I stir up individuals to oppose by force the general will, seated in the Government, it may be treason; but to induce changes in a government, by exposing to a whole nation its errors and imperfections, can have no bearing upon such an offence; the utmost which can be made of it is a misdemeanour, and that, too, depending wholly upon the judgment which the Jury may form of the intention of the writer. The Courts, for a long time, indeed, assumed to themselves the province of deciding upon this intention, as a matter of law, conclusively inferring it from the act of publication; I say the Courts *assumed* it, though it was not the doctrine of Lord Mansfield, but handed down to him from the precedents of judges before his time; but even in that case, though the publication was the crime, not, as in this case, the intention, and though the quality of the thing charged, when not rebutted by evidence for the defendant, had so long been considered to be a legal inference, yet the Legislature, to support the province of the Jury, and in tenderness for liberty, has lately altered the law upon this important subject.† If, therefore, we were not assembled, as we are, to consider of the existence of high treason against the King's life, but only of a misdeameanour for seditiously disturbing his title and establishment, by the proceedings for a reform in Parliament, I should think the Crown, upon the very principle

* In 1792, and found guilty.

† See ante p. 348.

which, under the libel law, must now govern such a trial, quite as distant from its mark; because, in my opinion, there is no way by which his Majesty's title can more firmly be secured, or by which (above all, in our times) its permanency can be better established, than by promoting a more full and equal representation of the people, by peaceable means; and by what other means has it been sought, in this instance, to be promoted?

"Gentlemen, when the members of this Convention were seized, did they attempt resistance? Did they insist upon their privileges as subjects under the laws, or as a parliament enacting laws for others? If they had said or done anything to give colour to such an idea, there needed no spies to convict them; the Crown could have given ample indemnity for evidence from amongst themselves; the societies consisted of thousands and thousands of persons, some of whom, upon any calculation of human nature, might have been produced; the delegates, who attended the meetings, could not be supposed to have met, with a different intention from those who sent them; and, if the answer to that is, that the constituents are involved in the guilt of their representatives, we get back to the monstrous position which I observed you before to shrink back from, with visible horror, when I stated it; namely, the involving in the fate and consequence of this single trial every man, who corresponded with these societies, or who, as a member of societies in any part of the kingdom, consented to the meeting which was assembled, or which was in prospect; but, I thank God I have nothing to fear from such hydras, when I see before me such just and honourable men to hold the balance of justice.

"Gentlemen, the dissolution of this Parliament speaks as strong a language as its conduct when sitting. How was it dissolved? When the magistrates entered, Mr. Skirving was in the chair, which he refused to leave: he considered and asserted his conduct to be legal, and therefore informed the magistrate he must exercise his authority, that the dispersion might appear to be involuntary, and that the subject, disturbed in his rights, might be entitled to his remedy. The magistrate on this took Mr. Skirving by the shoulder, who immediately obeyed; the chair was quitted in a moment, and this great Parliament broke up. What was the effect of all this proceeding at the time, when whatever belonged to it must have been best understood? Were any of the parties indicted for high treason? Were they indicted even for a breach of the peace in holding the Convention?—None of these things. The law of Scotland, arbitrary as it is, was to be disturbed to find a name for their offence, and the rules of trial to be violated to convict them: they were denied their challenges to their jurors, and other irregularities were introduced, so as to be the subject of complaint in the House of Commons. Gentlemen, in what I am saying, I am not standing up to vindicate all that they published during these proceedings, more especially those which were written in consequence of the trials I have just alluded to; but allowance must be made for a state of heat and irritation:—they saw men whom they believed to be persecuted for what they believed to be innocent—

they saw them the victims of sentences* which many would consider as equivalent to, if not worse than, judgment of treason: sentences which, at all events, had never existed before, and such as I believe never will again with impunity. But since I am on the subject of *intention*, I shall conduct myself with the same moderation which I have been prescribing; I will cast no aspersions, but shall content myself with lamenting that these judgments were productive of consequences which rarely follow from authority discreetly exercised. How easy is it, then, to dispose of as much of the evidence as consumed half a day in the anathemas against the Scotch judges! It appears that they came to various resolutions concerning them; some good, some bad, and all of them irregular. Amongst others, they compare them to Jefferies, and wish that they who imitate his example, may meet his fate.—What then? Irreverend expressions against judges are not acts of high treason! If they had assembled round the Court of Justiciary, and hanged them in the execution of their offices, it would not have been treason within the statute: I am no advocate for disrespect to judges, and think that it is dangerous to the public order; but, putting aside the insult upon the judges now in authority, the reprobation of Jefferies is no libel, but an awful and useful memento to wicked men. Lord Chief Justice Jefferies denied the privilege of English law to an innocent man. He refused it to Sir Thomas Armstrong,† who in vain pleaded in bar of his outlawry, that he was out of the realm when he was exacted—(an objection so clear, that it was lately taken for granted, in the case of Mr. Purefoy). The daughter of this unfortunate person, a lady of honour and quality, came publicly into Court to supplicate for her father; and what were the effects of her supplications, and of the law in the mouth of the prisoner? 'Sir Thomas Armstrong,' said Jefferies, 'you may amuse yourself as much as you please with the idea of your innocence, but you are to be hanged next Friday;' and, upon the natural exclamation of a daughter at this horrible outrage against her parent, he said, 'Take that woman out of Court;' which she answered by a prayer, that God Almighty's judgments might light upon him. Gentlemen, they did light upon him; and when, after his death, which speedily followed this transaction, the matter was brought before the House of Commons, under that glorious Revolution which is asserted throughout the proceedings before you, the judgment against Sir Thomas Armstrong was declared to be a murder under colour of justice! Sir Robert Sawyer, the Attorney-general, was expelled the House of Commons for his misdemeanour in refusing the writ of error: and the executors of

* The legality of the sentence was open to the same question as that passed on Messrs. Muir and Palmer. See ante note p. 213.

† Sir Thomas Armstrong was seized in Holland, for having been engaged in Monmouth's conspiracy against James II., 1683; and as it was apprehended that sufficient evidence could not be procured to obtain a verdict against him even from the subservient juries of that time, he was condemned and executed without a trial under the pretence that he was not entitled to claim one, as he had not surrendered himself after outlawry.

Jefferies were commanded to make compensation to the widow and the daughter of the deceased. These are great monuments of justice; and, although I by no means approve of harsh expressions against authority, which tend to weaken the holdings of society, yet let us not go beyond the mark in our restraints, nor suppose that men are dangerously disaffected to the government, because they feel a sort of pride and exultation in events which constitute the dignity and glory of their country.

"Gentlemen, this resentment against the proceedings of the Courts in Scotland, was not confined to those who were the objects of them; it was not confined even to the friends of a reform in Parliament—a benevolent public, in both parts of the island, joined them in the complaint; and a gentleman of great moderation, and a most inveterate enemy to parliamentary reform, as thinking it not an improvement of the government, but nevertheless a lover of his country and its insulted justice, made the convictions of the delegates the subject of a public inquiry: I speak of my friend Mr. William Adam, who brought these judgments of the Scotch Judges before the House of Commons,* arraigned them as contrary to law, and proposed to reverse them by the authority of Parliament. Let it not, then, be matter of wonder, that these poor men, who were the immediate victims of this injustice, and who saw their brethren expelled from their country by an unprecedented and questionable judgment, should feel like men on the subject, and express themselves as they felt.

"Gentlemen, amidst the various distresses and embarrassments which attend my present situation, it is a great consolation that I have marked, from the beginning, your vigilant attention and your capacity to understand; it is, therefore, with the utmost confidence that I ask you a few plain questions, arising out of the whole of these Scotch proceedings. In the first place, then, do you believe it to be possible, that, if these men had really projected the Convention as a traitorous usurpation of the authorities of Parliament, they would have invited the friends of the people, in Frith-street, to assist them, when they knew that this society was determined not to seek the reform of the constitution but by means that were constitutional, and from whom they could neither hope for support nor concealment of evil purposes? I ask you, next, if their objects had been traitorous, would they have given them, without disguise or colour, to the public and to the government, in every common newspaper? And yet it is so far from being a charge against them, that they concealed their objects by hypocrisy or guarded conduct, that I have been driven to admit the justice of the complaint against them, for unnecessary inflammation and exaggeration. I ask you, further, whether, if the proceedings thus published and exaggerated, had appeared to Government, who knew everything belonging to them, in the light they represent them to you to-day, they could possibly have slept over them with such com-

* The House negatived Mr. Adams's motion for revision of the sentence by a large majority.

plete indifference and silence? For it is notorious that after this Convention had been held at Edinburgh; after, in short, everything had been said, written, and transacted, on which I am now commenting, and after Mr. Paine's book had been for above a year in universal circulation,—aye, up to the very day when Mr. Grey gave notice, in the House of Commons, of the intention of the Friends of the People for a reform in Parliament, there was not even a single indictment on the file for a misdemeanour; but, from that moment, when it was seen that the cause was not beat down or abandoned, the proclamation made its appearance, and all the proceedings that followed had their birth. I ask you, lastly, Gentlemen, whether it be in human nature, that a few unprotected men, conscious, in their own minds, that they had been engaged and detected in a detestable rebellion to cut off the King, to destroy the administration of justice, and to subvert the whole fabric of the government, should turn round upon their country, whose ruin they had projected, and whose most obvious justice attached on them, complaining, forsooth, that their delegates, taken by magistrates, in the very act of high treason, had been harshly and illegally interrupted in a meritorious proceeding? The history of mankind never furnished an instance, nor ever will, of such extravagant, preposterous, and unnatural conduct! No, no, Gentlemen; all their hot blood was owing to their firm persuasion, dictated by conscious innocence, that the conduct of their delegates had been legal, and might be vindicated against the magistrates who obstructed them. In that they might be mistaken;—I am not arguing that point at present: if they are hereafter indicted for a misdemeanour, and I am counsel in that cause, I will then tell you what I think of it: sufficient for the day is the good or evil of it. It is sufficient for the present one, that the legality or illegality of the business has no relation to the crime that is imputed to the prisoner.

"The next matter that is alleged against the authors of the Scotch Convention, and the societies which supported it, is, their having sent addresses of friendship to the Convention of France. These addresses are considered to be a decisive proof of republican combination, verging closely in themselves upon an overt act of treason. Gentlemen, if the dates of these addresses are attended to, which come no lower down than November, 1792, we have only to lament, that they are but the acts of private subjects, and that they were not sanctioned by the State itself. The French nation, about that period, under their new constitution, or under their new anarchy—call it which you will—were, nevertheless, most anxiously desirous of maintaining peace with this country. But the King was advised to withdraw his ambassador from France, upon the approaching catastrophe of its most unfortunate prince; an event, which, however to be deplored, was no justifiable cause of offence to Great Britain. France desired nothing but the regeneration of her own government; and if she mistook the road to her prosperity, what was that to us? But it was alleged against her in Parliament, that she had introduced spies amongst us, and held correspondence with disaffected persons, for the destruction of our constitution; this was the charge of our Minister, and it was,

therefore, held to be just and necessary, for the safety of the country, to hold France at arm's length, and to avoid the very contagion of contact with her at the risk of war. But, Gentlemen, this charge against France was thought by many, to be supported by no better proofs than those against the prisoner.* In the public correspondence of the ambassador from the French King, and upon his death, as minister from the Convention, with his Majesty's Secretary of State, documents which lie upon the table of the House of Commons, and which may be made evidence in the cause, the Executive Council repelled with indignation all the imputations, which to this very hour are held out as the vindications of quarrel. 'If there be such persons in England,' says Monsieur Chauvelin, 'has not England laws to punish them? France disavows them—such men are not Frenchmen.' The same correspondence conveys the most solemn assurances of friendship down to the very year 1792, a period subsequent to all the correspondence and addresses complained of. Whether these assurances were faithful or otherwise; whether it would have been prudent to have depended on them, or otherwise; whether the war was advisable or unadvisable, are questions over which we have no jurisdiction: I only desire to bring to your recollection, that a man may be a friend to the rights of humanity and to the imprescriptible rights of social man, which is now a term of derision and contempt,—that he may feel to the very soul for a nation beset by the sword of despots, and yet be a lover of his own country and its constitution.

"Gentlemen, the same celebrated person, of whom I have had occasion to speak so frequently, is the best and brightest illustration of this truth. Mr. Burke, indeed, went a great deal further than requires to be pressed into the present argument; for he maintained the cause of justice and of truth against all the perverted authority and rash violence of his country, and expressed the feelings of a Christian and a patriot in the very heat of the American war; boldly holding forth our victories as defeats, and our successes as calamities and disgraces. 'It is not instantly,' said Mr. Burke, 'that I can be brought to rejoice, when I hear of the slaughter and captivity of long lists of those names which have been familiar to my ears from my infancy, and to rejoice that they have fallen under the sword of strangers, whose barbarous appellations I scarcely know how to pronounce. The glory acquired at the White Plains by Colonel Raille† has no charms for me; and I fairly acknowledge that I have not yet learned to delight in finding Fort Knyphausen‡ in the heart of the British dominions.' If this had been said or written by Mr. Yorke at Sheffield, or by any other member of these societies, heated with wine at the Globe tavern, it would have been trumpeted forth as decisive evidence of a rebellious spirit, rejoicing in the

* See ante note, p. 168, and p. 173 and note.

† On the occasion of the capture of New York by the British, in 1776.

‡ Named after General Kuyphausen, who highly distinguished himself while serving under General Howe, at the battle of Brandywine, which immediately preceded the capture of Philadelphia by the British, in September, 1776.

downfall of his country; yet the great author whose writings I have borrowed from approved himself to be the friend of this nation at that calamitous crisis, and had it pleased God to open the understandings of our rulers, his wisdom might have averted the storms that are now thickening around us. We must not, therefore, be too severe in our strictures upon the opinions and feelings of men as they regard such mighty public questions. The interests of a nation may often be one thing, and the interests of its government another; but the interests of those who hold government for the hour is at all times different from either. At the time many of the papers before you were circulated on the subject of the war with France, many of the best and wisest men in this kingdom began to be driven by our situation to these melancholy reflections; and thousands of persons, the most firmly attached to the principles of our constitution, and who never were members of any of these societies, considered, and still consider, Great Britain as the aggressor against France; they considered, and still consider, that she had a right to choose a government for herself, and that it was contrary to the first principles of justice, and, if possible, still more repugnant to the genius of our own free constitution, to combine with despots for her destruction. And who knows but that the external pressure upon France may have been the cause of that unheard-of state of society which we complain of?* Who knows but that, driven as she has been to exertions beyond the ordinary vigour of a nation, it has not been the parent of that unnatural and giant strength which threatens the authors of it with perdition? These are melancholy considerations, but they may reasonably and, at all events lawfully, be entertained. We owe obedience to Government in our actions, but surely our opinions are free.

"Gentlemen, pursuing the order of time, we are arrived, at length, at the proposition to hold another convention, which, with the supposed support of it by force, are the only overt acts of high treason charged upon this record. For, strange as it may appear, there is no charge whatever before you of any one of those acts or writings, the evidence of which consumed so many days in reading, and which has already nearly consumed my strength in only passing them in review before you. If every line and letter of all the writings I have been commenting upon were admitted to be traitorous machinations, and if the Convention in Scotland was an open rebellion, it is conceded to be foreign to the present purpose, unless as such criminality in them might show the views and objects of the persons engaged in them. On that principle only the Court has over and over again decided the evidence of them to be admissible; and on the same principle I have illustrated them in their order as they happened, that I might lead the prisoner in your view up to the very point and moment when the treason is supposed to have burst forth into the overt act for which he is arraigned before you.

"The transaction respecting this second Convention, which constitutes

* See ante p. 166 and note.

the principal, or, more properly, the only overt act in the indictment, lies in the narrowest compass, and is clouded with no ambiguity. I admit freely every act which is imputed to the prisoner, and listen not so much with fear as with curiosity and wonder to the treason sought to be connected with it.

"You will recollect that the first motion towards the holding of a second convention, originated in a letter to the prisoner from a country correspondent, in which the legality of the former was vindicated, and its dispersion lamented:—this letter was answered on the 27th of March 1794, and was read to you in the Crown's evidence in these words:—

"CITIZEN, *March*, 27 1794.

"'I am directed by the London Corresponding Society to transmit the following resolutions to the Society for Constitutional Information, and to request the sentiments of that society respecting the important measures which the present juncture of affairs seems to require.

"'The London Corresponding Society conceives that the moment is arrived, when a full and explicit declaration is necessary from all the friends of freedom—whether the late illegal and unheard-of prosecutions and sentences shall determine us to abandon our cause, or shall excite us to pursue a radical reform, with an ardour proportioned to the magnitude of the object, and with a zeal as distinguished on our own parts as the treachery of others in the same glorious cause is notorious. The Society for Constitutional Information is therefore required to determine whether or no they will be ready, when called upon, to act in conjunction with this and other societies to obtain a fair representation of the people—whether they concur with us in seeing the necessity of a speedy Convention, for the purpose of obtaining, in a constitutional and legal method, a redress of those grievances under which we at present labour, and which can only be effectually removed by a full and fair representation of the people of Great Britain. The London Corresponding Society cannot but remind their friends that the present crisis demands all the prudence, unanimity, and vigour, that may or can be exerted by MEN and BRITONS; nor do they doubt but that manly firmness and consistency will finally, and they believe shortly, terminate in the full accomplishment of all their wishes. I am, Fellow-citizen,

"'(In my humble measure,)

"'A friend to the Rights of Man,

(Signed) 'T. HARDY, Secretary.'

"They then resolve that there is no security for the continuance of any right but in equality of *laws*; not in equality of *property*, the ridiculous bugbear by which you are to be frightened into injustice;—on the contrary, throughout every part of the proceedings, and most emphatically in Mr. Yorke's speech, so much relied on, the beneficial subordinations of society, the security of property, and the prosperity of the landed and commercial interests, are held forth as the very objects to be attained by the reform in the representation which they sought for.

"In examining this first moving towards a second Convention, the first thing to be considered is, what reason there is, from the letter I have just read to you, or from anything that appears to have led to it, to suppose that a different sort of Convention was projected from that which had been before assembled and dispersed. The letter says, *another* British Convention; and it describes the same objects as the first: compare all the papers for the calling this second Convention with those for assembling the first, and you will find no difference, except that they mixed with them extraneous and libellous matter, arising obviously from the irritation produced by the sailing of the transports with their brethren condemned to exile. These papers have already been considered, and separated, as they ought to be, from the charge.

"I will now lay before you all the remaining operations of this formidable conspiracy, up to the prisoner's imprisonment in the Tower. Mr. Hardy having received the letter just adverted to, regarding a second Convention, the Corresponding Society wrote the letter of the 27th of March, and which was found in his hand-writing, and is published in the first Report, page 11. This letter, enclosing the resolutions they had come to upon the subject, was considered by the Constitutional Society on the next day, the 28th of March, the ordinary day for their meeting, when they sent an answer to the Corresponding Society, informing them that they had received their communication,—that they heartily concurred with them in the objects they had in view, and invited them to send a delegation of their members to confer with them on the subject.

"Now, what were the objects they concurred in, and what was to be the subject of conference between the Societies by their Delegates? Look at the letter, which distinctly expresses its objects, and the means by which they sought to effect them. Had these poor men (too numerous to meet all together, and therefore renewing the cause of Parliamentary Reform by delegation from the Societies) any reason to suppose, that they were involving themselves in the pains of treason, and that they were compassing the King's death, when they were redeeming (as they thought) his authority from probable downfall and ruin? Had treason been imputed to the delegates before? Had the imagining the death of the King ever been suspected by anybody? Or, when they were prosecuted for misdemeanours, was the prosecution considered as an indulgence conferred upon men whose lives had been forfeited? And is it to be endured, then, in this free land—made free, too, by the virtue of our forefathers, who placed the King upon his throne to maintain this freedom—that forty or fifty thousand people, in the different parts of the kingdom, assembling in their little societies to spread useful knowledge, and to diffuse the principles of liberty—which the more widely they are spread, the surer is the condition of our free government—are in a moment, without warning, without any law or principle to warrant it, and without precedent or example, to be branded as traitors, and to be decimated as victims for punishment! The Constitutional Society having answered

the letter of the 27th of March, in the manner I stated to you, committees from each of the two societies were appointed to confer together. The Constitutional Society appointed Mr. Joyce, Mr. Kidd, Mr. Wardle, and Mr. Holcroft, all indicted; and Mr. Sharpe, the celebrated engraver, not indicted, but examined as a witness by the Crown. Five were appointed by the Corresponding Society to meet these gentlemen: namely, Mr. Baxter, Mr. Moore, Mr. Thelwall, and Mr. Hodgson, all indicted, and Mr. Lovatt, against whom the bill was thrown out. These gentlemen met at the house of Mr. Thelwall on the 11th of April, and there published the resolutions already commented on, in conformity with the general objects of the two Societies, expressed in the letter of the 27th of March, and agreed to continue to meet on Mondays and Thursdays for further conference on the subject. The first Monday was the 14th of April, of which we have heard so much, and no meeting was held on that day; the first Thursday was the 17th of April, but there was no meeting; the 21st of April was the second Monday, but there was still no meeting; the 24th of April was the second Thursday, when the five of the Corresponding Society attended, but, nobody coming to meet them from the other, nothing of course was transacted;—on Monday, the 28th of April, three weeks after their first appointment, this bloody and impatient band of conspirators, seeing that a Convention Bill was in projection, and that Hessians were landing on our coasts,* at last assembled themselves;—and now we come to the point of action. Gentlemen, they met; they shook hands with each other; they talked over the news and the pleasures of the day; they wished one another a good evening, and retired to their homes:—it is in vain to hide it, they certainly did all these things. The same *alarming* scene was repeated on the three following days of meeting, and on Monday, May the 12th, would, but for the vigilance of Government, have probably again taken place; but on that day Mr. Hardy was arrested, his papers seized, and the conspiracy which pervaded this devoted country was dragged into the face of day. To be serious, Gentlemen, you have literally the whole of it before you in the meetings, I have just stated; in which you find ten gentlemen, appointed by two peaceable societies, conversing upon the subject of a constitutional reform in Parliament, publishing the result of their deliberations, without any other arms than one supper-knife; which, when I come to the subject of arms, I will in form lay before you. Yet for this, and for this alone, you are asked to devote the prisoner before you, and his unfortunate associates, to the pains and penalties of death; and not to death alone, but to the eternal stigma and infamy of having conceived the detestable and horrible design of dissolving the government of their country, and of striking at the life of their Sovereign, who had never given offence to them, nor to any of his subjects.

* A body of Hessian troops were landed on the Isle of Wight, from Germany, in 1794, in readiness for a projected expedition against France. The opposition insisted that such an introduction of foreign troops, without the consent of Parliament, was illegal; but the motions declaratory of the illegality of the proceedings were negatived, and Mr. Pitt refused to countenance a Bill of indemnity.

"Gentlemen, as a conspiracy of this formidable extension, which had no less for its object than the sudden annihilation of all the existing authorities of the country, and of everything that supported them, could not be even gravely stated to have an existence, without contemplation of force to give it effect; it was absolutely necessary to impress upon the public mind, and to establish, by formal evidence, upon the present occasion, that such a force was actually in preparation. This most important and indispensable part of the cause was attended with insurmountable difficulties, not only from its being unfounded in fact, but because it had been expressly negatived by the whole conduct of Government; for, although the motions of all these societies had been watched for two years together,—though their spies had regularly attended, and collected regular journals of their proceedings,—yet when the first report was finished, and the Habeas Corpus Act suspended upon the foundation of the facts contained in it, there was not to be found, from one end of it to the other, even the insinuation of arms. I believe that this circumstance made a great impression upon all the thinking dispassionate part of the public, and that the materials of the first report were thought to furnish but a slender argument to support such a total eclipse of liberty. No wonder, then, that the discovery of a pike, in the interval between the two reports, should have been highly estimated. I mean no reflections upon Government, and only state the matter as a man of great wit very publicly reported it: he said that the discoverer, when he first beheld the long-looked-for pike, was transported beyond himself with enthusiasm and delight, and that he hung over the rusty instrument with all the raptures of a fond mother, who embraces her first-born infant, 'and thanks her God for all her travail past.'

"In consequence of this discovery, whoever might have the merit of it, and whatever the discoverer might have felt upon it, persons were sent by Government (and properly sent) into all corners of the kingdom, to investigate the extent of the mischief. The fruit of this inquiry has been laid before you, and I pledge myself to sum up the evidence which you have had upon the subject, not by parts, or by general observations, but in the same manner as the Court itself must sum it up to you, when it lays the whole body of the proof with fidelity before you. Notwithstanding all the declamations upon French anarchy, I think I may safely assert that it has been distinctly proved, by the evidence, that the Sheffield people were for universal representation in a British House of Commons. This appears to have been the general sentiment, with the exception of one witness, whose testimony makes the truth and *bona fides* of the sentiments far more striking; the witness I allude to (George Widdison), whose evidence I shall state in its place, seems to be a plain, blunt, honest man, and, by the bye, which must never be forgotten of any of them, the Crown's witness. I am not interested in the veracity of any of them; for, as I have frequently adverted to, the Crown must take them for better for worse; it must support each witness, and the whole body of its evidence throughout. If you do not believe the whole of

what is proved by a witness, what confidence can you have in part of it, or what part can you select to confide in? If you are deceived in part, who shall measure the boundaries of the deception? This man says he was at first for universal suffrage; Mr. Yorke had persuaded him, from all the books, that it was the best; but that he afterwards saw reason to think otherwise, and was not for going the length of the Duke of Richmond; but that all the other Sheffield people were for the Duke's plan—a fact confirmed by the cross-examination of every one of the witnesses. You have, therefore, positively and distinctly, upon the universal authority of the evidence of the Crown, the people of Sheffield, who are charged as at the head of a republican conspiracy, proved to be associated on the very principles which, at different times, have distinguished the most eminent persons in this kingdom; and the charge made upon them, with regard to arms, is cleared up by the same universal testimony.

"You recollect that, at a meeting held upon the Castle hill, there were two parties in the country; and it is material to attend to what these two parties were. In consequence of the King's proclamation,* a great number of honourable, zealous persons, who had been led by a thousand artifices ot believe that there was a just cause of alarm in the country, took very extraordinary steps for support of the magistracy. The publicans were directed not to entertain persons who were friendly to a reform of Parliament; and alarms of change and of revolution pervaded the country, which became greater and greater as our ears were hourly assailed with the successive calamities of France. Others saw things in an opposite light, and considered that these calamities were made the pretext for extinguishing British liberty. Heart-burnings arose between the two parties; and some—I am afraid, a great many—wickedly or ignorantly interposed in a quarrel which zeal had begun. The societies were disturbed in their meetings, and even the private dwellings of many of their members were illegally violated. It appears by the very evidence to the Crown, by which the cause must stand or fall, that many of the friends of reform were daily insulted, their houses threatened to be pulled down, and their peaceable meetings beset by pretended magistrates, without the process of the law. These proceedings naturally suggested the propriety of having arms for self-defence, the first and most unquestionable privilege of man, in or out of society, and expressly provided for by the very letter of English law. It was ingeniously put by the learned counsel, in the examination of a witness, that it was complained of amongst them, that very little was sufficient to obtain a warrant from some magistrates, and that therefore it was as well to be provided for those who might have warrants as for those who had none. Gentlemen, I am too much exhausted to pursue or argue such a difference, even if it existed upon the evidence, because if the societies in question (however mistakenly) considered their meetings to be legal, and the warrants to disturb them to

* See ante note, p. 199.

be beyond the authority of the magistrate to grant, they had a right, at the peril of the legal consequences, to stand upon their defence; and it is no transgression of the law, much less high treason against the King, to resist his officers when they pass the bounds of their authority. So much for the general evidence of arms; and the first and last time that even the name of the Prisoner is connected with the subject, is by a letter he received from a person of the name of Davison. I am anxious that this part of the case should be distinctly understood, and I will, therefore, bring back this letter to your attention The letter is as follows:—

"'FELLOW-CITIZEN,

"'The barefaced aristocracy of the present administration has made it necessary that we should be prepared to act on the defensive, against any attack they may command their newly-armed minions to make upon us. A plan has been hit upon, and, if encouraged sufficiently, will, no doubt, have the effect of furnishing a quantity of pikes to the patriots, great enough to make them formidable. The blades are made of steel, tempered and polished after an approved form. They may be fixed into any shafts (but *fir* ones are recommended) of the girt of the accompanying hoops at the top end, and about an inch more at the bottom.

"'The blades and hoops (more than which cannot properly be sent to any great distance) will be charged one shilling. Money to be sent with the orders.

"'As the institution is in its infancy, immediate encouragement is necessary.

"'Orders may be sent to the Secretary of the Sheffield Constitutional Society. [*Struck out.*]

"'RICHARD DAVISON.

"'Sheffield, April 24, 1794.'

"Gentlemen, you must recollect (for if it should escape you, it might make a great difference) that Davison directs the answer to this letter to be sent to Robert Moody at Sheffield, to prevent post-office suspicion; and that he also encloses in it a similar one which Mr. Hardy was to forward to Norwich, in order that the society at that place might provide pikes for themselves, in the same manner that Davison was recommending, through Hardy, to the people of London. Now what followed upon the prisoner's receiving this letter? It is in evidence by this very Moody, to whom the answer was to be sent, and who was examined as a witness by the Crown, that he never received any answer to the letter; and, although there was a universal seizure of papers, no such letter, nor any other, appeared to have been written; and, what is more, the letter to Norwich, from Davison, enclosed in his letter to Hardy, was never forwarded, but was found in his custody when he was arrested, three weeks afterwards, folded up in the other and unopened, as he received it. Good God! what is become of the humane sanctuary of English justice—where is the sense and meaning of the term *proveably* in

the statute of King Edward—if such evidence can be received against an English subject on a trial for his life? If a man writes a letter to me about pikes, or about anything else, can I help it? And is it evidence (except to acquit me of suspicion) when it appears that nothing is done upon it? Mr. Hardy never before corresponded with Davison—he never desired him to write to him; how indeed could he desire him when his very existence was unknown to him? he never returned an answer,—he never forwarded the enclosed to Norwich,—he never even communicated the letter itself to his own society, although he was its secretary, which showed he considered it as the unauthorised officious correspondence of a private man;—he never acted upon it at all, nor appears to have regarded it as dangerous or important, since he neither destroyed nor concealed it. Gentlemen, I declare I hardly know in what language to express my astonishment, that the Crown can ask you to shed the blood of the man at the bar upon such foundations. Yet this is the whole of the written evidence concerning arms: for the remainder of the plot rests, for its foundation, upon the parole evidence, the whole of which I shall pursue with precision, and not suffer a link of the chain to pass unexamined.

"William Camage was the first witness: he swore that the Sheffield societies were frequently insulted, and threatened to be dispersed; so that the people in general thought it necessary to defend themselves against illegal attacks;—that the justices having officiously intruded themselves into their peaceable and legal meetings, they thought they had a right to be armed; but they did not claim this right under the law of nature, or by theories of government, but as ENGLISH SUBJECTS, under the government of ENGLAND; for they say in their paper, which has been read by the Crown that would condemn them, that they were entitled by the BILL of RIGHTS to be armed. Gentlemen, they state their title truly: the preamble of that statute enumerates the offences of King James the Second; amongst the chief of which, was his causing his subjects to be disarmed, and then our ancestors claim this violated right as their indefeasible inheritance. Let us therefore be cautious how we rush to the conclusion, that men are plotting treason against the King, because they are asserting a right, the violation of which has been adjudged against a King to be treason against the people; and let us not suppose that English subjects are a banditti, for preparing to defend their legal liberties with pikes, because pikes may have been accidentally employed in another country to destroy both liberty and law. Camage says he was spoken to by this Davison about three dozen of pikes. What then?—He is the Crown's witness, whom they offer to you as the witness of truth; and he started with horror at the idea of violence, and spoke with visible reverence for the King; saying, God forbid that he should touch him; but he, nevertheless, had a pike for himself. Indeed, the manliness with which he avowed it, gave an additional strength to his evidence.—'No doubt,' says he, 'I had a pike, but I would not have remained an hour a member of the society, if I had heard a syllable, that it was in the contemplation of anybody to employ

pikes or any other arms against the King or the Government. We meant to petition Parliament, through the means of the Convention of Edinburgh, thinking that the House of Commons would listen to this expression of the general sentiments of the people; for it had been thrown out, he said, in Parliament, that the people did not desire it themselves.'

"Mr. Broomhead, whose evidence I have already commented upon, a sedate, plain, sensible man, spoke also of his affection to the government, and of the insults and threats which had been offered to the people of Sheffield: he says, 'I heard of arms on the Castle-hill, but it is fit this should be distinctly explained: a wicked hand-bill, to provoke and terrify the multitude, had been thrown about the town in the night, which caused agitation in the minds of the people; and it was then spoken of as being the right of every individual to have arms for defence; but there was no idea ever started of resisting, much less of attacking, the Government. I never heard of such a thing. 'I fear God,' said the witness, 'and honour the King; and would not have consented to send a delegate to Edinburgh, but for peaceable and legal purposes.'

"The next evidence upon the subject of arms, is what is proved by Widdison, to which I beg your particular attention, because, if there be any reliance upon his testimony, it puts an end to every criminal imputation upon Davison, through whom, in the strange manner already observed upon, Hardy could alone be criminated.

"This man, Widdison, who was both a turner and a hair-dresser, and who dressed Davison's hair, and was his most intimate acquaintance, gives you an account of their most confidential conversations upon the subject of the pikes, when it is impossible that they could be imposing upon one another; and he declares upon his solemn oath, that Davison, without even the knowledge or authority of the Sheffield Society, thinking that the same insults might be offered to the London Societies, wrote the letter to Hardy, '*of his own head*,' as the witness expressed it, and that he, Widdison, made the pike-shafts, to the number of a dozen and a half. Davison, he said, was his customer; he told him that people began to think themselves in danger, and he therefore made the handles of the pikes for sale, to the number of a dozen and a half, and one likewise for himself, without conceiving that he offended against any law. 'I love the King,' said Widdison, 'as much as any man, and all that I associated with did the same; I would not have staid with them if they had not: Mr. Yorke often told me privately, that he was for universal representation, and so were we all—THE DUKE OF RICHMOND'S PLAN WAS OUR ONLY OBJECT.' This was the witness who was shown the Duke's letter, and spoke to it as being circulated, and as the very creed of the Societies. This evidence shows, beyond all doubt, the genuine sentiments of these people, because it consists of their most confidential communications with one another; and the only answer, therefore, that can possibly be given to it is, that the witnesses, who deliver it, are imposing upon the Court. But this—as I have wearied you with reiterating—the Crown cannot

say; for in that case, their whole proof falls to the ground together, since it is only from the same witnesses that the very existence of these pikes and their handles comes before us; and, if you suspect their evidence *in part*, for the reasons already given, it must be *in toto* rejected. My friend is so good as to furnish me with this further observation; that Widdison said he had often heard those who call themselves aristocrats say, that if an invasion of the country should take place, they would begin with destroying their enemies at home, that they might be unanimous in the defence of their country.

"John Hill was next called: he is a cutler, and was employed by Davison to make the blades for the pikes; he saw the letter which was sent to Hardy, and knew that it was sent, lest there should be the same call for defence in London against illegal attacks upon the Societies; for that at Sheffield they were daily insulted, and that the opposite party came to his own house, fired muskets under the door, and threatened to pull it down; he swears that they were, to a man, faithful to the King, and that the reform proposed was in the Commons House of Parliament.

"John Edwards was called, further to connect the prisoner with the combination of force; but so far from establishing it, he swore, upon his cross-examination, that his only reason for going to Hardy's, was, that he wanted a pike for his own defence, without connexion with Davison, or with Sheffield, and without concert or correspondence with any body. He had heard, he said, of the violences at Sheffield, and of the pikes that had been made there for defence; that Hardy, on his application, showed him the letter which, as has appeared, he never showed to any other person. This is the whole sum and substance of the evidence which applies to the charge of pikes, after the closest investigation, under the sanction, and by the aid, of Parliament itself: evidence which, so far from establishing the fact, would have been a satisfactory answer to almost any testimony by which such a fact could have been supported: for in this unparalleled proceeding, the prisoner's Counsel is driven by his duty to dwell upon the detail of the Crown's proofs; because the whole body of it is the completest answer to the indictment which even a free choice itself could have selected. It is further worthy of your attention, that as far as the evidence proceeds from these plain, natural sources, which the Crown was driven to, for the necessary foundation of the proceedings before you, it has been simple, uniform, natural, and consistent; and that whenever a different complexion was to be given to it, it was only through the medium of spies and informers, and of men, independently of their infamous trade, of the most abandoned and profligate characters.

"Before I advert to what has been sworn by this description of persons, I will give you a wholesome caution concerning them, and, having no eloquence of my own to enforce it, I will give it to you in the language of the same gentleman whose works are always seasonable, when moral or political lessons are to be rendered delightful. Look, then, at the picture of society, as Mr. Burke has drawn it, under the dominion of spies and informers; I say, under

their *dominion*, for a resort to spies may, on occasions, be justifiable, and their evidence, when confirmed, may deserve implicit credit; but I say under the *dominion* of spies and informers, because the case of the Crown must stand alone upon their evidence, and upon their evidence, not only unconfirmed, but in direct contradiction to every witness not an informer or a spy, and in a case too, where the truth, whatever it is, lies within the knowledge of forty or fifty thousand people. Mr. Burke says—I believe I can remember it without reference to the book—

"'A mercenary informer knows no distinction. Under such a system, the obnoxious people are slaves, not only to the government, but they live at the mercy of every individual; they are at once the slaves of the whole community, and of every part of it; and the worst and most unmerciful men are those on whose goodness they most depend.

"'In this situation men not only shrink from the frowns of a stern magistrate, but are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse and in social habitudes. The blood of wholesome kindred is infected. The tables and beds are surrounded with snares. All the means given by Providence to make life safe and comfortable, are perverted into instruments of terror and torment. This species of universal subserviency, that makes the very servant who waits behind your chair the arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mind which alone can make us what we ought to be, that I avow to God, I would sooner bring myself to put a man to immediate death for opinions I disliked, and so to get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the jail distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction, corrupted himself, and corrupting all about him.'

"Gentlemen, let me bring to your recollection the deportment of the first of this tribe, Mr. Alexander,—who could not in half an hour even tell where he had lived, or why he had left his master. Does any man believe that he had forgotten these most recent transactions of his life? Certainly not—but his history would have undone his credit, and must therefore be concealed. He had lived with a linendraper, whose address we could scarcely get from him, and they had parted because they had words. What were the words? We were not to be told that. He then went to a Mr. Killerby's, who agreed with him at twenty-five guineas a year. Why did he not stay there? He was obliged, it seems, to give up this lucrative agreement, because he was obliged to attend here as a witness. Gentlemen, Mr. Killerby lives only in Holborn; and was he obliged to give up a permanent engagement with a tradesman in Holborn, because he was obliged to be absent at the Old Bailey for five minutes in one single day? I asked him if he had told Mr. White, the Solicitor for the Treasury, who would not have been so cruel as to deprive

a man of his bread, by keeping him upon attendance which might have been avoided by a particular notice. The thing spoke for itself—he had never told Mr. White: but had he ever told Mr. Killerby? For how else could he know that his place was inconsistent with his engagement upon this trial? No, he had never told him! — How, then, did he collect that his place was inconsistent with his duty here? This question never received any answer. You saw how he dealt with it, and how he stood stammering, not daring to lift up his countenance in any direction—confused—disconcerted—and confounded.

"Driven from the accusation upon the subject of pikes, and even from the very colour of accusation, and knowing that nothing was to be done without the proof of arms, we have got this miserable, solitary knife, held up to us as the engine which was to destroy the constitution of this country; and Mr. Groves, an Old Bailey solicitor, employed as a spy upon the occasion, has been selected to give probability to this monstrous absurdity, by his *respectable* evidence. I understand that this same gentleman has carried his system of spying to such a pitch as to practise it since this unfortunate man has been standing a prisoner before you, proffering himself, as a friend, to the committee preparing his defence, that he might discover to the Crown the materials by which he meant to defend his life. I state this only from report, and I hope in God I am mistaken: for human nature starts back appalled from such atrocity, and shrinks and trembles at the very statement of it. But as to the perjury of this miscreant, it will appear palpable beyond all question, and he shall answer for it in due season. He tells you he attended at Chalk Farm; and that there, forsooth, amongst about seven or eight thousand people, he saw two or three persons with knives:—he might, I should think, have seen many more, as hardly any man goes without a knife of some sort in his pocket. He asked, however, it seems, where they got these knives, and was directed to Green, a hair-dresser, who deals besides in cutlery; and accordingly this notable Mr. Groves went (as he told us) to Green's, and asked to purchase a knife; when Green in answer to him said, 'Speak low, for my wife is a damn'd aristocrat.' This answer was sworn to by the wretch, to give you the idea that Green, who had the knives to sell, was conscious that he kept them for an illegal and wicked purpose, and that they were not to be sold in public. The door, he says, being a-jar, the man desired him to speak low, from whence he would have you understand that it was because this aristocratic wife was within hearing. This, Gentlemen, is the testimony of Groves, and Green himself is called as the next witness; and called by whom? Not by me—I know nothing of him, he is the Crown's own witness. He is called to confirm Groves's evidence; but *not being a spy*, he declared solemnly upon his oath, and I can confirm his evidence by several respectable people, that the knives in question lie constantly, and lay then, in his open shop-window, in what is called the show-glass, where cutlers, like other tradesmen, expose their ware to public view; and that the knives differ in nothing from others publicly sold in the

Strand, and every other street in London ;—that he bespoke them from a rider, who came round for orders in the usual way ; that he sold only fourteen in all, and that they were made up in little packets, one of which Mr. Hardy had, who was to choose one for himself, but four more were found in his possession, because he was arrested before Green had an opportunity of sending for them.

" Gentlemen, I think the pikes and knives are now completely disposed of; but something was said also about guns; let us, therefore, see what that amounts to. It appears that Mr. Hardy was applied to by Samuel Williams, a gun-engraver, who was not even a member of any society, and who asked him if he knew anybody who wanted a gun. Hardy said, he did not ; and undoubtedly, upon the Crown's own showing, it must be taken for granted that if at that time he had been acquainted with any plan of arming, he would have given a different answer, and would have jumped at the offer.— About a fortnight afterwards, however, (Hardy in the interval having become acquainted with Franklow,) Williams called to buy a pair of shoes, and then Hardy, recollecting his former application, referred him to Franklow, who had in the most public manner raised the forty men, who were called the Loyal Lambeth Association: so that, in order to give this transaction any bearing upon the charge, it became necessary to consider Franklow's Association as an armed conspiracy against the government—though the forty people who composed it were collected by public advertisement—though they were enrolled under public articles—and though Franklow himself, as appears from the evidence, attended publicly at the Globe Tavern in his uniform, whilst the cartouch-boxes and the other accoutrements of these secret conspirators lay openly upon his shop-board, exposed to the open view of all his customers and neighbours. This story, therefore, is not less contemptible than that which you must have all heard concerning Mr. Walker, whom I went to defend at Lancaster, where that respectable gentleman was brought to trial upon such a trumped-up charge, supported by the solitary evidence of one Dunn, a most infamous witness.* But what was the end of that prosecution? I recollect it to the honour of my friend, Mr. Law, who conducted it for the Crown, who, knowing that there were persons whose passions were agitated upon these subjects at that moment, and that many persons had enrolled themselves in societies to resist conspiracies against the government, behaved in a most manful and honourable manner,—in a manner, indeed, which the public ought to know, and which I hope it never will forget. He would not even put me upon my challenges to such persons, but withdrew them from the pannel ; and when he saw the complexion of the affair, from the contradiction of the infamous witness whose testimony supported it, he honourably gave up the cause.

* Mr. Walker, with some others, was indicted, in 1794, at the Lancaster Assizes, for a conspiracy to overthrow the government. The prosecution depended on the evidence of an informer of the name of Dunn, who was afterwards convicted of perjury at the very same Assizes.

" Gentlemen, the evidence of Lynam does not require the same contradiction which fell upon Mr. Groves, because it destroys itself by its own intrinsic inconsistency. I could not, indeed, if it were to save my life, undertake to state it to you. It lasted, I think, about six or seven hours, but I have marked under different parts of it, passages so grossly contradictory, matter so impossible, so inconsistent with any course of conduct, that it will be sufficient to bring these parts to your view, to destroy all the rest. But let us first examine in what manner this matter, such as it is, was recorded. He professed to speak from notes, yet I observed him frequently looking up to the ceiling whilst he was speaking. When I said to him, Are you now speaking from a note?—Have you got any note of what you are now saying? He answered, ' Oh no, this is from recollection.' Good God Almighty!—recollection mixing itself with notes in a case of high treason! He did not even take down the words; nay, to do the man justice, he did not even affect to have taken the words, but only the substance, as he himself expressed it. Oh excellent evidence!—The substance of words taken down by a spy, and supplied, when defective, by his memory! But I must not call him a spy; for it seems he took them *bonâ fide* as a delegate, and yet *bonâ fide* as an informer. What a happy combination of fidelity!—faithful to serve, and faithful to betray!—correct to record for the business of the society, and correct to dissolve and to punish it! What, after all, do the notes amount to? I will advert to the parts I alluded to: they were, it seems, to go to Frith-street, to sign the declaration of the Friends of the Liberty of the Press, which lay there already signed by between twenty and thirty members of the House of Commons, and many other respectable and opulent men; and then they were to begin civil confusion, and the King's head and Mr. Pitt's were to be placed on Temple Bar. Immediately after which, we find them resolving unanimously to thank Mr. Wharton for his speech to support the glorious Revolution of 1688, which supports the very throne that was to be destroyed! which same speech they were to circulate in thousands, for the use of the societies throughout the kingdom. Such incoherent, impossible matter, proceeding from such a source, is unworthy of all further concern.

" Thus driven out of everything which relates to arms, and from every other matter which can possibly attach upon life, they have recourse to an expedient, which, I declare, fills my mind with horror and terror; it is this: The Corresponding Society had, you recollect, two years before, sent delegates to Scotland, with specific instructions, peacefully to pursue a parliamentary reform; when the Convention which they were sent to was dispersed, they sent no others—for they were arrested when only considering of the propriety of another convention. It happened that Mr. Hardy was the secretary during the period of these Scotch proceedings, and the letters consequently written by him, during that period, were all official letters from a large body, circulated by him in point of form. When the proposition took place for calling a second Convention, Mr. Hardy continued to be Secre-

tary, and, in that character, signed the circular letter read in the course of the evidence, which appears to have found its way, in the course of circulation, into Scotland. This single circumstance has been admitted as the foundation of receiving in evidence against the prisoner, a long transaction imputed to one Watt, at Edinburgh, whose very existence was unknown to Hardy. This Watt had been employed by Government as a spy, but at last caught a Tartar in his spyship; for, in endeavouring to urge innocent men to a project which never entered into their imaginations, he was obliged to show himself ready to do what he recommended to others; and the tables being turned upon him, he was hanged by his employers. This man Watt read from a paper designs to be accomplished, but which he never intended to attempt, and the success of which he knew to be visionary. To suppose that Great Britain could have been destroyed by such a rebel as Watt, would be, as Dr. Johnson says, 'to expect that a great city might be drowned by the overflowing of its kennels.' But whatever might be the peril of Watt's conspiracy, what had Hardy to do with it? The people with Watt were five or six persons, wholly unknown to Hardy, and not members of any society of which Mr. Hardy was a member; I vow to God, therefore, that I cannot express what I feel, when I am obliged to state the evidence by which he sought to be affected. A letter, namely, the circular letter signed by Hardy for calling another Convention, is shown to George Ross, who says he received it from one Stock, who belonged to a society which met in Nicholson-street, in Edinburgh, and that he sent it to Perth, Strathaven, and Paisley, and other places in Scotland; and the single unconnected evidence of this public letter, finding its way into Scotland, is made the foundation of letting in the whole evidence, which hanged Watt against Hardy, who never knew him. Government hanged its own spy in Scotland upon that evidence, and it may be sufficient evidence for that purpose; I will not argue the case of a dead man, and, above all, of such a man; but I will say, that too much money was spent upon this performance, as I think it cost Government about fifty thousand pounds. M'Ewen says, that Watt read from a paper to a committee of six or seven people, of which he, the witness, was a member, that gentlemen, residing in the country, were not to leave their habitations, under pain of death; that an attack was to be made in the manner you remember, and that the Lord Justice Clerk and the Judges were to be cut off by these men in buckram; and then an address was to be sent to the King, desiring him to dismiss his Ministers and put an end to the war, or he might expect bad consequences. WHAT IS ALL THIS TO MR. HARDY? How is it possible to affect him with any part of this? Hear the sequel, and then judge for yourselves. Mr. Watt said (that is, the man who is hanged, said), after reading the paper, that he, Watt, wished to correspond with Mr. Hardy in a safe manner; so that, because a ruffian and scoundrel, whom I never saw or heard of, chooses, at the distance of four hundred miles, to say, that he wishes to correspond with me, I am to be involved in the guilt of his actions! It is not proved or insinuated, that Mr. Hardy ever saw, or heard of, or knew, that such men were in being as Watt or

Downie; nor is it proved, or asserted, that any letter was, in fact, written by either of them to Hardy, or to any other person. No such letter has been found in his possession, nor a trace of any connexion between them and any member of any English society; the truth, I believe, is, that nothing was intended by Watt but to entrap others to obtain a reward for himself, and he has been amply and justly rewarded. Gentlemen, I desire to be understood to be making no attacks upon Government; I have wished, throughout the whole cause, that good intentions may be imputed to it, but I really confess, that it requires some ingenuity for Government to account for the original existence of all this history, and its subsequent application to the present trial. They went down to Scotland, after the arrest of the prisoners, in order, I suppose, that we might be taught the law of high treason by the Lord Justice Clerk of Edinburgh, and that there should be a sort of rehearsal to teach the people of England to administer English laws; for, after all this expense and preparation, no man was put upon his trial, nor even arraigned under the special commission in Scotland, but these two men; one for reading this paper, and the other for not dissenting from it when it was read; and, with regard to this last unfortunate person, the Crown thought it indecent, as it would indeed have been indecent and scandalous, to execute the law upon him; as a gentleman upon his jury said, he would die rather than convict Downie without a recommendation of mercy, and he was only brought over to join in the verdict, under the idea that he would not be executed, and, accordingly, he has not suffered execution. If Downie, then, was an object of mercy, or rather of justice, though he was in the very room with Watt, and heard distinctly the proposition, upon what possible ground can they demand the life of the prisoner at the bar, on account of a connexion with the very same individual, though he never corresponded with him, nor saw him, nor heard of him—to whose very being he was an utter stranger?

"Gentlemen, it is impossible for me to know what impression this observation makes upon you, or upon the Court; but I declare I am deeply impressed with the application of it. How is a man to defend himself against such implications of guilt? Which of us all would be safe, standing at the bar of God or man, if he were even to answer for all his own expressions, without taking upon him the crimes or rashnesses of others? This poor man has, indeed, none of his own to answer for; yet how can he stand safely in judgment before you, if, in a season of alarm and agitation, with the whole pressure of Government upon him, your minds are to be distracted with criminating materials brought from so many quarters, and of an extent which mocks all power of discrimination? I am conscious that I have not adverted to the thousandth part of them; yet I am sinking under fatigue and weakness—I am at this moment scarcely able to stand up whilst I am speaking to you, deprived, as I have been, for nights together, of everything that deserves the name of rest, repose, or comfort. I therefore hasten, whilst yet I may be able, to remind you once again of the great principle into which all I have been saying resolves itself.

"Gentlemen, my whole argument, then, amounts to no more than this, that before the crime of compassing THE KING'S DEATH can be found by you, the Jury, whose province it is to judge of its existence, it must be believed by you to have existed in point offact. Before you can adjudge A FACT, you must *believe* it—not *suspect* it, or *imagine* it, or *fancy* it—but BELIEVE it; and it is impossible to impress the human mind with such a reasonable and certain belief, as is necessary to be impressed, before a Christian man can adjudge his neighbour to the smallest penalty, much less to the pains of death, without having such evidence as a reasonable mind will accept of, as the infallible test of truth. And what is that evidence? Neither more nor less than that which the constitution has established in the courts for the general administration of justice; namely, that the evidence convinces the Jury, beyond all reasonable doubt, that the criminal *intention*, constituting the crime, existed in the mind of the man upon trial, and was the main-spring of his conduct. The rules of evidence, as they are settled by law, and adopted in its general administration, are not to be over-ruled or tampered with. They are founded in the charities of religion, in the philosophy of nature, in the truths of history, and in the experience of common life; and whoever ventures rashly to depart from them, let him remember, that it will bemeted to him in the same measure, and that both God and man will judge him accordingly. These are arguments addressed to your reasons and consciences, not to be shaken in upright minds by any precedent, for no precedents can sanctify injustice; if they could, every human right would long ago have been extinct upon the earth. If the State Trials in bad times are to be searched for precedents, what murders may you not commit? what law of humanity may you not trample upon? what rule of justice may you not violate? and what maxim of wise policy may you not abrogate and confound? If precedents in bad times are to be implicitly followed, why should we have heard any evidence at all? You might have convicted without any evidence, for many have been so convicted, and in this manner murdered, even by Acts of Parliament. If precedents in bad times are to be followed, why should the Lords and Commons have investigated these charges, and the Crown have put them into this course of judicial trial?—since, without such a trial, and even after an acquittal upon one, they might have attainted all the prisoners by Act of Parliament; they did so in the case of Lord Strafford. There are precedents, therefore, for all such things; but such precedents as could not for a moment survive the times of madness and distraction, which gave them birth; but which, as soon as the spurs of the occasions were blunted, were repealed, and execrated even by Parliaments which (little as I may think of the present) ought not to be compared with it: Parliaments sitting in the darkness of former times—in the night of freedom—before the principles of government were developed, and before the constitution became fixed. The last of these precedents, and all the proceedings upon it, were ordered to be taken off the file and burnt, to the intent that the same might no longer be visible in after ages; an order

dictated, no doubt, by a pious tenderness for national honour, and meant as a charitable covering for the crimes of our fathers. But it was a sin against posterity; it was a treason against society; for, instead of commanding them to be burnt, they should rather have directed them to be blazoned in large letters upon the walls of our courts of justice, that, like the characters deciphered by the prophet of God, to the Eastern tyrant, they might enlarge and blacken in your sights, to terrify you from acts of injustice.

"In times when the whole habitable earth is in a state of change and fluctuation—when deserts are starting up into civilised empires around you —and when men, no longer slaves to the prejudices of particular countries, much less to the abuses of particular governments, enlist themselves, like the citizens of an enlightened world, into whatever communities their civil liberties may be best protected; it never can be for the advantage of this country to prove, that the strict, unextended letter of her laws, is no security to its inhabitants. On the contrary, when so dangerous a lure is everywhere holding out to emigration, it will be found to be the wisest policy of Great Britain to set up her happy constitution—the strict letter of her guardian laws, and the proud condition of equal freedom, which her highest and her lowest subjects ought equally to enjoy; it will be her wisest policy to set up these first of human blessings against those charms of change and novelty which the varying condition of the world is hourly displaying, and which may deeply affect the population and prosperity of our country. In times when the subordination to authority is said to be everywhere but too little felt, it will be found to be the wisest policy of Great Britain, to instil into the governed an almost superstitious reverence for the strict security of the laws; which, from their equality of principle, beget no jealousies or discontent; which, from their equal administration, can seldom work injustice; and which, from the reverence growing out of their mildness and antiquity, acquire a stability in the habits and affections of men, far beyond the force of civil obligation: whereas, severe penalties, and arbitrary constructions of laws intended for security, lay the foundations of alienation from every human government, and have been the cause of all the calamities that have come, and are coming, upon the earth.

"Gentlemen, what we read of in books makes but a faint impression upon us compared to what we see passing under our eyes in the living world. I remember the people of another country, in like manner, contending for a renovation of their constitution, sometimes illegally and turbulently, but still devoted to an honest end;—I myself saw the people of Brabant so contending for the ancient constitution of the good Duke of Burgundy.* How was this people

* The revolution which took place in Brabant and the other Belgian Provinces in 1787—1790 must always be regarded as an anomaly in the history of revolutions, being a curious instance of the resistance of a nation, not to the oppressions of tyranny, but, on the contrary, to all attempts to rescue them from bigotry, and the thraldom of priestcraft, and to introduce a liberal reformation in politics and religion. All the endeavours of the Emperor Joseph II. to enfranchise the Belgian Provinces from the

dealt by? All, who were only contending for their own rights and privileges, were supposed to be, of course, disaffected to the Emperor:—they were handed over to courts constituted for the emergency, as this is, and the Emperor marched his army through the country till all was peace;—but such peace as there is in Vesuvius, or Ætna, the very moment before they vomit forth their lava, and roll their conflagrations over the devoted habitations of mankind. When the French approached, the fatal effects were suddenly seen of a government of constraint and terror;—the well-affected were dispirited, and the disaffected inflamed into fury. At that moment the Archduchess fled from Brussels, and the Duke of Saxe-Teschen was sent express to offer the *joyeuse entrée* so long petitioned for in vain; but the season of concession was past, the storm blew from every quarter, and the throne of Brabant departed for ever from the House of Burgundy. Gentlemen, I venture to affirm, that, with other counsels, this fatal prelude to the last revolution in that country, might have been averted. If the Emperor had been advised to make the concessions of justice and affection to his people, they would have risen in a mass to maintain their prince's authority, interwoven with their own liberties; and the French, the giants of modern times, would, like the giants of antiquity, have been trampled in the mire of their own ambition. In the same manner a far more splendid and important crown passed away from his Majesty's illustrious brow,—THE IMPERIAL CROWN OF AMERICA. The people of that country, too, for a long season, contended as subjects, and often with irregularity and turbulence, for what they felt to be their rights; and, oh, gentlemen! that the inspiring and immortal eloquence of that man, whose name I have so often mentioned, had then been heard with effect! What was his language to this country when she sought to lay burdens on America, not to support the dignity of the Crown, or for the increase of national revenue, but to raise a fund for the purpose of corruption; a fund for maintaining those tribes of hireling skipjacks, which Mr. Tooke so well contrasted with the hereditary nobility of England? Though America would not bear this imposition, she would have borne any useful or constitutional burden to support the parent state.

"'For that service—for all service,' said Mr. Burke, 'whether of revenue, trade, or empire, my trust is in her interest in the British constitution. My hold of the colonies is in the close affection which grows from common names, from kindred blood, from similar privileges and equal protection. These are

bondage of superstition and prejudice, were, owing to the control and influence of the clergy over the people, met with the most obstinate opposition, and succeeded for a time only by the strong arm of power. Intent on re-establishing the former corruptions of the church and state, they arrogantly refused all overtures of submission to Leopold, who had succeeded Joseph on the imperial throne, but were utterly powerless against the Austrian army, which, under General Bender, invaded the Provinces, and, almost without opposition, reduced them to obedience. The Emperor died in the following year, and very shortly after his death the Belgian Provinces again revolted and joined the French Republicans, and became for ever separated from the Austrian Empire.—See ante note, p. 167.

ties, which, though light as air, are as strong as links of iron. Let the colonies always keep the idea of their civil rights associated with your governments, they will cling and grapple to you, and no force under heaven will be of power to tear them from their allegiance. But let it be once understood, that your government may be one thing, and their privileges another; that these two things may exist without any mutual relation; the cement is gone; the cohesion is loosened; and everything hastens to decay and dissolution. As long as you have the wisdom to keep the sovereign authority of this country as the sanctuary of liberty, the sacred temple consecrated to our common faith, wherever the chosen race and sons of England worship freedom, they will turn their faces toward you. The more they multiply, the more friends you will have; the more ardently they love liberty, the more perfect will be their obedience. Slavery they can have anywhere. It is a weed that grows in every soil. They may have it from Spain, they may have it from Prussia. But until you become lost to all feeling of your true interest and your natural dignity, freedom they can have from none but you. This is the commodity of price, of which you have the monopoly. This is the true act of navigation, which binds to you the commerce of the colonies, and, through them, secures to you the wealth of the world. Is it not the same virtue which does everything for us here in England? Do you imagine, then, that it is the land-tax act which raises your revenue? that it is the annual vote in the Committee of Supply, which gives you your army? or that it is the Mutiny Bill which inspires it with bravery and discipline? No! surely no! It is the love of the people, it is their attachment to their government, from the sense of the deep stake they have in such a glorious institution, which gives you your army and your navy, and infuses into both that liberal obedience, without which, your army would be a base rabble, and your navy nothing but rotten timber.'

"Gentlemen, to conclude—my fervent wish is, that we may not conjure up a spirit to destroy ourselves, nor set the example here of what in another country we deplore. Let us cherish the old and venerable laws of our forefathers. Let our judicial administration be strict and pure; and let the Jury of the land preserve the life of a fellow-subject, who only asks it from them upon the same terms under which they hold their own lives, and all that is dear to them and their posterity for ever. Let me repeat the wish with which I began my address to you, and which proceeds from the very bottom of my heart; may it please God, who is the Author of all mercies to mankind, whose providence, I am persuaded, guides and superintends the transactions of the world, and whose guardian spirit has for ever hovered over this prosperous island, to direct and fortify your judgments. I am aware I have not acquitted myself, to the unfortunate man who has put his trust in me, in the manner I could have wished; yet I am unable to proceed any further; exhausted in spirit and in strength, but confident in the expectation of justice. There is one thing more, however, that (if I can) I must state to you, namely, that I will show, by as many witnesses as it may be found necessary or con-

venient for you to hear upon the subject, that the views of the societies were what I have alleged them to be; that whatever irregularities or indiscretions they might have committed, their purposes were honest; and that Mr. Hardy's, above all other men, can be established to have been so. I have, indeed, an Honourable Gentleman (Mr. Francis) in my eye at this moment, to be called hereafter as a witness, who being desirous, in his place as a member of Parliament, to promote an inquiry into the seditious practices complained of, Mr. Hardy offered himself voluntarily to come forward, proffered a sight of all the papers, which were afterwards seized in his custody, and tendered every possible assistance to give satisfaction to the laws of his country, if found to be offended. I will show, likewise, his character to be religious, temperate, humane, and moderate, and his uniform conduct all that can belong to a good subject and an honest man.—When you have heard this evidence, it will, beyond all doubt, confirm you in coming to the conclusion which, at such great length (for which I entreat your pardon), I have been endeavouring to support."

The Jury returned a verdict of "Not Guilty."

[As some of the subscribers to the "MODERN ORATOR" may have expected that some of Lord Erskine's Speeches in Parliament would have appeared in this collection, it is proper to state that they are inferior in every respect to his Speeches at the Bar, and would be undeserving of a place in a work professing to give only the most celebrated speeches of modern times. Edmund Burke, in his place in the House of Commons, speaking of Erskine, observed, "The bar was the scene of his wealth, of his reputation, of his fame; this House was only the scene of his duty. . . . . This House had only the refuse of the honourable and learned gentleman's abilities; they obtained him solely at second-hand. This was the scene of his duty, the other the scene of his pleasure."]

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THE

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THE SPEECHES

OF THE

RIGHT HON. EDMUND BURKE.

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SPEECHES OF EDMUND BURKE.

EDMUND BURKE was the son of a Mr. Richard Burke, an attorney, and was born at Dublin on the 1st of January, 1730. He received his education at an establishment of considerable repute at Ballytore, in the county of Kildare, under the management of a Quaker named Abraham Shackleton; and afterwards graduated at Trinity College, Dublin, but did not particularly distinguish himself. During his residence at college, he became a member of the Middle Temple, intending to practise at the English bar, and, on finishing his academical course, he arrived in London in the beginning of 1750. It does not appear, however, that he ever devoted himself with earnestness to his professional studies, but became a constant contributor to the political and literary publications of the day. In 1756, being only twenty-six years of age, he published his celebrated pamphlet entitled, "A Vindication of Natural Society," in which he so skilfully imitated Lord Bolingbroke's style of writing, that it was for some time considered a genuine production, by men distinguished in the literary world. By the introduction of Lord Charlemont, Mr. Burke became acquainted with Mr. Hamilton, known generally as "Single-speech Hamilton," and in 1761 accompanied him to Ireland, in the capacity of private Secretary, on Mr. Hamilton going as chief secretary to the Lord Lieutenant, Lord Halifax. Mr. Burke had by this time entirely abandoned all idea of the Bar, and had applied himself studiously to the acquirement of political and statistical knowledge. On the breaking up of the Grenville Administration, in July, 1765, Mr. Burke became private Secretary to the new Premier, the Marquis of Rockingham, and was returned, through ministerial influence, member for Wendover, in Buckinghamshire. Though filling a subordinate situation, he soon became the main support of Government; and, on the Rockingham party going out of office, in July, 1766, he became a formidable member of the opposition. On the dissolution of Parliament, in 1774, he was returned by Lord Rockingham's interest, member for Malton, in Yorkshire; but being informed by a deputation from Bristol (at the time he was actually returning thanks to his constituents) that he had been put in nomination for that city, he immediately set off thither, and after a severe contest was returned as one of its members; but having subsequently, by

his political conduct, offended his constituents, he declined standing again for Bristol at the next election, which took place in 1780, and was again returned for Malton, for which borough he always afterwards continued to sit. On the resignation of Lord North, in March, 1782, Mr. Burke resumed office with the Rockingham party, and was made a member of the Privy Council and Paymaster-general of the Forces ; but on the death of the Marquis of Rockingham in the following July, and the appointment of Lord Shelburne as First Lord of the Treasury, he, with several of his friends, resigned office ; but again resumed it in 1783, under the celebrated coalition ministry. This, however, was of very short duration, as that ministry came to its close in the December following, when Mr. Burke was dismissed from office with his party, and never afterwards became a member of the Government.

The remainder of Mr. Burke's political life was devoted principally to East Indian affairs, and the management of the prosecution of Warren Hastings; and his last appearance in the House of Commons was on the 20th June, 1794, when the thanks of the House were conveyed by Mr. Addington, the Speaker, to the managers of the impeachment.

Mr. Burke died at his house at Beaconsfield, Bucks, on the 9th July, 1797.

His character was exemplary: he was amiable in private life, faithful in his attachments, charitable, and unostentatiously religious. To quote the words of Schlegel, the celebrated lecturer on literature—

"No task could be more difficult than that of doing justice to the statesman and orator Burke. This man has been, to his own country, and to all Europe—in a very particular manner to Germany—a new light of political wisdom and moral experience. He corrected his age when it was at the height of its revolutionary frenzy, and, without maintaining any system of philosophy, he seems to have seen further into the true nature of society, and to have more clearly comprehended the effect of religion in connecting individual security with national welfare, than any philosopher or any system of philosophy of any preceding age."

Speech in opposition to the Bill to restrain the East India Company from appointing Supervisors in India, 18th December, 1772.

In this year (1772) considerable alarm and distress was occasioned in the country by the excessive negotiation of bills of exchange and promissory notes, which had the evil effect of causing large speculations supported on a hollow foundation and imaginary capital. In this crisis the Bank refused to discount ; whereupon a panic and general distrust ensued, and the necessity of realising the depreciated securities at all hazards, entailed ruin on thousands. In the midst of this distress Parliament was summoned to consider the embarrassed state of the affairs of the East India Company. It appears that they had accepted bills to four times the amount of the sum for which the

Council was allowed to draw, and were, besides, considerably in debt to the Bank and to Government. Notwithstanding which, they were contemplating sending out Supervisors to India at an expense of £120,000 per annum, to check the abuses committed by their subordinate officers, and to ensure the proper collection of their revenue. This measure the Company represented as really one of economy, alleging that the expenses of the commission would be much more than paid by the savings they would effect. At the recommendation, however, of the Secret Committee on Indian affairs, Government thought proper to bring in a bill to restrain the Company from incurring this fresh expense in the existing condition of their finances. During the progress of the bill, counsel were heard and evidence adduced before the House on behalf of the Company; and on the third reading of the Bill, Mr. Burke delivered the following Speech:—

"Sir,

"The counsel have so ably performed their part, that I shall not attempt to measure over again the legal ground which they have trod. The bill, however, is of so unconstitutional and dangerous a complexion, that it demands something more than a silent vote; and I should think myself unworthy of the trust reposed in me by a part of the people, were I to sit an idle hearer, on such an occasion. I know, indeed, that the same qualifications, now-a-days, make a good member of Parliament, that formerly made a good monk. "*Tria faciunt monachum: Bene loqui de superiore—legere breviarium taliter qualiter—et sinere res vadere ut vadunt.*" In English, "Speak well of the minister; read the lesson he sets you, *taliter qualiter;* and let the state take care of itself—*sine res vadere ut vadunt.*" These,—for the other side of the House must recognise the picture,—these are the first and best recommendations of a modern senator: ability, integrity, knowledge of business, a judgment of your own. But why do I talk of such antiquated accomplishments? These, and a thousand other perfections are included in the two words, 'passive obedience.'

"The recollection, Sir, of this House's repeated acts of passive obedience and non-resistance, has in me destroyed the active influence of two of the most powerful passions of the human mind—surprise and indignation. Formerly I have, upon the passing of some votes and resolutions, sat here fixed in amazement, not able to account to myself for the strangeness of your conduct, in sacrificing a permanent to a temporary interest. I have passed many a sleepless night, in alternate fits of contempt and wrath, meditating, with myself, some scheme of reformation, some remedy to the evils with which I saw such pernicious measures threatened my country. But, Sir, the heat of youth has subsided, its keener feelings are blunted. Time, that softens every calamity, has laid his headlong hands upon me, and rendered me less tremblingly alive to the wounds aimed at liberty. In spite of what is said by a gentleman at the door, who tells us that we are as young as ever, I feel age coming upon me, and with it I feel that the constitution is not growing younger. Hopeless, however, as I am, I cannot help calling to mind the Roman maxim, *De*

republica non desperandum. Though all human institutions, being born with the seeds of mortality in their very frame, must perish; yet, as the body politic is not in every respect similar to the human body, let us cherish the idea, if not of its immortality, at least of its renovation, and long continuance in health and vigour.

"Sir, this bill is grounded upon the report of your secret committee. Now, if the report itself be not well grounded, neither can the bill, which is the superstructure. That the report is ill-founded is clear from hence, that the expense of the commission is the only reason stated, and that reason is by no means valid. Your committee asked, 'Might not the savings intended for the payment of your commissioners be applied to the use of the Company?' 'Yes,' was the answer. But had they, as in justice bound, proceeded one step further, and asked, 'Can these savings be made without the commission?' the answer would have been 'No;' and the foundation of the report would have given way, and the whole fabric of this bill tumbled to the ground.

"Equally absurd, Sir, is the objection to the commission drawn from its giving the governor and council a vote in the deliberation of the supervisors, and from the eventual death of one or two of the supervisors. The commission requires the actual presence of three supervisors in every resolution; and the casting vote is in the first of the three; the governor, the commander-in-chief, and the second in council, making the other three inferior assessors. Hence the supervisors have power, if they see cause, to dismiss the governor and the whole council; and in every case they have the control in their hands. Nor can death, except four, or above one half die, prevent them from acting with effect; and in that case they cannot act at all. Thus it appears, that the ministerial arguments on this head proceed from inattention to the subject, from absolute ignorance of the tenor and purport of the commission.

"Sir, the commission being thus free from these inconsistencies and absurdities with which it has been charged by some respectable, but ill-informed members, where is the wonder that the proprietary, when solicited, did not rescind their resolution of sending out supervisors? Sir, the Company dares not imitate this House; it dares not undo to-day, what it did yesterday; to enact and repeal alternately, is the exclusive privilege of this assembly—

'Diruit, ædificat, mutat, quadrata rotundis.'

Such levity and inconsistence would be too presumptuous a usurpation in the East India Company.

"Sir, when the Company is thus tender of encroaching upon any of our rights, is it not cruel, is it not ungenerous, in Administration to harass it with two committees:* with a committee of secrecy founded on the principles of the inquisition, and with a select committee, which is declared by one of

* See ante note, p. 361.

its friends to be a mockery of the Company? A gentleman, who generally votes with Administration, finds the bill to be illegal, inexpedient, and alarming; and he finds the secret committee to be an inquisition too rapid and violent in its motions. Another friend of the Minister declares the select committee so slow in its progress, as to be a perfect mockery. What is to become of the Company between both? I protest I can compare them to nothing but a jack. The select committee is the slow-moving weight, the secret committee is the flyer; and what with the slow motion of the one, and the rapid motion of the other, the Company is effectually roasted.

"But, Sir, this is not the first instance of the tender mercies of Parliament to the East India Company. In the reign of William III. they were obliged to bribe both King and Parliament, and to compound for their existence, by a part of their wealth.* What has been their fate in the reign of George the Third? The Minister, under the specious pretext of serving, ruins them; and, in order to repair the damage which his unskilfulness has occasioned, offers you a bill that makes a breach in the constitution. Sir, in former times a servant of the Crown durst not hazard such a measure; and, perhaps, this is the first instance in which so open an attempt has been made to cover ministerial incapacity under the ruins of the constitution.

"Sir, in the year 1767, Administration discovered that the East India Company were guardians to a very handsome and rich lady in Hindostan. Accordingly, they set Parliament in motion; and Parliament (whether from love to her person or fortune, is, I believe, no problem) directly became a suitor, and took the lady into its tender, fond, grasping arms, pretending all the while that it meant nothing but what was fair and honourable; that no rape or violence was intended; that its sole aim was to rescue her and her fortune out of the pilfering hands of a set of rapacious stewards, who had let her estate run to waste, and had committed various depredations. To drop the allegory—Parliament took the state of the East India Company's trade and revenue under its consideration. And what was the ostensible object of this inquiry? Five reasons were assigned: the maintenance of the public faith, the support of public credit, the increase of the Company's trade, the increase of its revenues, and the security of the stock-holders.

"Well, Sir, this grand and salutary plan was entered upon; books upon books, and papers upon papers, were brought up and piled upon your table, in such numbers, that the copying of the very extracts cost an honourable gentleman behind me £300. The subject was considered and re-considered; debate succeeded debate, and resolution succeeded resolution. One-and-

* It appeared, on the positive evidence of some of the principal actors in this abominable transaction, and, among the rest, on that of one of the Directors of the East India Company, that, on the granting of the New Charter to the Company in 1693 (the old one having become forfeited), no less a sum than nearly £90,000 had been expended by the Company in bribes, to procure the grant; of which sum, £10,000 was pretty clearly shown to have been paid to the King, and other large sums were distributed among the members of both Houses.

forty times did the House sit upon this business, and more than once till four o'clock in the morning. What, Sir, was the result?

"Quid dignum tanto feret hic promissor hiatu?"

What did this mountain in labour bring forth? No mouse, I assure you, but a fair round sum of £400,000 a year* to Government. In this manner did Parliament provide for the maintenance of the public faith, and the support of public credit! In this manner did Parliament increase the Company's trade and revenue, and give security to the stockholders! When the Company came down handsomely, and furnished a reasonable sum, to pay off the arrears of the Civil List,—arrears so honourably and usefully contracted,—the five reasons were forgot. The eyes of Parliament were dazzled, and could no longer see how to make any regulations for securing the permanence and stability of that lucrative bargain which it had made.

"The Company, without any formed system, without the aid of precedent, without the light of experience, without chart or compass, was allowed to steer at random through this perilous ocean. What wonder that they lost their course? The wonder would have been, if, assisted by no lights but by those communicated by servants, interested, through the fear of past embezzlement, and the prospect of future peculation, to mislead, they had not been bewildered and lost. The distress of the Company arises from the improvidence of Administration, and the short-sightedness of Parliament, in not forming for it a system of government suitable to its form and constitution. Or, am I mistaken, and were the affairs of the Company designedly left in confusion? Were the directors left without any effectual control over delinquent servants? Was the collection of the revenues left without any check? Was the tyranny of a double government, like our double cabinet,† tolerated with the view of seeing the concerns of the Company become an absolute chaos of disorder, and of giving Government a handle for seizing the territorial revenue? I know that this was the original scheme of Administration, and I violently suspect that it never has been relinquished.

"Sir, if the Ministry have no sinister view, if they do not mean by this unconstitutional step to extend the influence of the Crown, they will now speak out and explicitly declare their intentions. Silence will be justly deemed a confession of guilt; and they will, without any injury, be considered as the determined enemies of the liberty of their country. God knows that the places, and pensions, and expectancies, furnished by the British establishment, are too powerful for the small remains of patriotism and public spirit in our island. What, then, will become of us, if Bengal, if the Ganges pour in a new tide of corruption? Should the evil genius of British liberty so ordain it, I fear this House will be so far from removing the corruption of the East, that it will be corrupted by them. I dread more

* For two years, by way of compromise.

† Under the Duke of Grafton's administration, so humorously and cleverly described by Mr. Burke in his speech on American Taxation, which follows this speech.

from the infection of that place, than I hope from your virtue. Was it not the sudden plunder of the East that gave the final blow to the freedom of Rome? What reason have we to expect a better fate?

"I conjure you, by everything that man ought to hold sacred; I conjure you by the spirits of your forefathers, who so nobly fought and bled for the cause for which I now plead; I conjure you by what includes everything—by your country, not to yield to the temptations which the East, in the hands of the Crown, holds out, not to sink into the gulf of corruption, and drag after you your posterity, your country. I obtest heaven and earth, that in all places, and at all times, I have hitherto shoved by the gilded hand of corruption, and endeavoured to stem the torrent which threatens to overwhelm this land; and from such temptations I pray God of his infinite mercy ever to preserve me! Sir, I hope the House is not offended; I only repeat the Lord's prayer, and beseech him not to lead me into temptation, but deliver me from evil. And, surely, it becomes me to be diffident of my own virtue and self-denial, when the very pillars of this House have been shaken, and given way.

"Upon the whole, Sir, the bill is dangerous in itself, as being the first step towards a total invasion of the Company's territories in Bengal; and, supposing the motive good, yet it is dangerous for the example—unconstitutional acts founded on unconstitutional motives, springing from unconstitutional acts founded on constitutional motives. An author who is more spoken of than read, I mean Aristotle, declares that acts of this nature have the most pernicious consequences, and accelerate the ruin of every state. I do not, however, deny that you have power to pass this act. Yes, Sir, you have the power; but you have not the right. There is a perpetual confusion in gentlemen's ideas from inattention to this material distinction; from which, properly considered, it will appear that this bill is contrary to the eternal laws of right and wrong—laws that ought to bind all men, and, above all men, legislative assemblies."

The Bill was passed, by a large majority.

Speech on American Taxation, delivered on the occasion of a motion by Mr. Fuller, for a Repeal of the Tea Duty, 19th April, 1774.

As a means of raising part of the necessary revenue for the service of the year 1764, and relieving Great Britain from the entire burden, it was proposed by Mr. George Grenville, at the instance of George III., to impose a direct taxation on the American Colonies, on the ground that, as they received protection from the mother country, they ought to contribute their proportion towards the national expenses; and, on the 10th March, 1764, a resolution to this effect passed the House of Commons. The Americans, already smarting under the heavy new duties imposed by authority of Parliament on all foreign goods imported into the Colonies, and which amounted almost to

a prohibition, quickly manifested the utmost opposition to the attempt to levy taxes on them by the authority of a Parliament in which they were unrepresented—a proceeding which they declared to be an infringement of their liberty and rights as British subjects; and to show their determination to resist, while they voted petitions and remonstrances to Parliament and the Throne, they formed themselves into associations to prevent the use of British manufactures in the Colonies, which was their only means of retaliation. Notwithstanding this opposition, the scheme of taxation was highly popular at home, and the Minister determined to persevere. Accordingly, a bill was introduced, and speedily passed both Houses, and received the royal assent on the 22nd March 1765, by which nearly the same stamp duties as were payable in England were laid on the American colonies; and it was supposed by Ministers, that the circumstance of all documents, which should not be stamped according to the provisions of the act, being rendered inoperative, would prevent any evasion, and ensure the success of the scheme. The period for the commencement of the act, which was fixed for the 1st November, 1765, allowed the Colonists time for resistance. Deputies from the different provinces met in Congress at New York, issued strong declarations of their rights, and consulted on the measures best to be adopted to obtain redress of their grievances. The rage of the populace became ungovernable, and broke out in acts of open violence. In Boston and Philadelphia, the houses of the officers of Government were attacked, and in the latter city all the guns were spiked. When the day arrived for the commencement of the Stamp Act, it was ushered in by the tolling of bells; and, by universal consent, the new law was totally disregarded, and not a stamp was bought to legalise any transaction. Thus foiled in their attempt, the English Government, at the head of which was now the Marquis of Rockingham, resolved to yield to the opposition of the colonists and to the petitions of the British manufacturers and merchants, who were reduced to great distress, by the refusal of the Americans to trade with them, and accordingly the Stamp Act was repealed on 16th March, 1766; but a Declaratory Act was passed, asserting "that the Parliament had, and of right ought to have, the power to bind the colonies in all cases whatsoever." The Americans, having attained their object, took no notice of this bare claim on the part of the British Parliament, and freely renewed their commercial intercourse with the mother country. Matters remained thus till 1767, when the attempt at colonial taxation was revived; and a bill, which quickly passed into an act, was introduced by Mr. Townsend, the Chancellor of the Exchequer under the Duke of Grafton's administration, which had succeeded that of the Marquis of Rockingham, for granting duties in the British colonies on glass, paper, red and white lead, painters' colours, and tea. In pursuance of this act, a Board of Commissioners of Customs was established at Boston, and, to repress the violence of the infuriated American populace, some armed vessels were stationed in the harbour, and two regiments of foot quartered in the town; but the former plan, renewed and persevered in by the colonists, of declining all commercial dealings with the mother country, again prevailed,

and Ministers (Lord North being then in power) were induced, in March, 1770, to repeal all the new duties except that on tea. Having so far gained their point, the colonists freely admitted all imports from England, except tea, which, on principle, they refused to purchase, subject to duty. To induce the colonists to purchase, the East India Company were permitted to ship this article free of export duty, and it was made liable only to a duty, on its importation into America, of 3d. in the pound; but the Americans were proof against this temptation; and, on the arrival of the ships with the tea, the populace became so excited, that they rushed on board and emptied the chests into the sea. Lord North, who was Prime Minister at the time, when informed of this outrage, by way of punishing the town of Boston, where it was committed, caused an act to be passed in March, 1774, abolishing that town as a port. Mr. Rose Fuller, member for Rye, and several others who supported Ministers in the Boston Port Act, yet considered that Parliament should at the same time evince a desire of reconciliation and show a disposition to redress the grievances complained of; and in this spirit, and with the view of abolishing the odious tax on tea, which was the main obstacle to the re-establishment of friendly intercourse, he moved, on the 19th April, 1774, that the House "should resolve itself into a Committee of the whole House, to take into consideration the duty of 3d. per pound weight upon tea, payable in all his Majesty's dominions in America, and also the appropriation of the said duty." In support of this motion, Mr. Burke spoke as follows:—

"Sir,

"I agree with the honourable gentleman* who spoke last, that this subject is not new in this House. Very disagreeably to this House, very unfortunately to this nation, and to the peace and prosperity of this whole empire, no topic has been more familiar to us. For nine long years, session after session, we have been lashed round and round this miserable circle of occasional arguments and temporary expedients. I am sure our heads must turn, and our stomachs nauseate with them. We have had them in every shape; we have looked at them in every point of view. Invention is exhausted; reason is fatigued; experience has given judgment; but obstinacy is not yet conquered.

"The honourable gentleman has made one endeavour more to diversify the form of this disgusting argument. He has thrown out a speech composed almost entirely of challenges. Challenges are serious things; and as he is a man of prudence as well as resolution, I dare say he has very well weighed those challenges before he delivered them. I had long the happiness to sit at the same side of the House, and to agree with the honourable gentleman on all the American questions. My sentiments, I am sure, are well known to him; and I thought I had been perfectly acquainted with his. Though I find myself mistaken, he will still permit me to use the privilege of an old

* Mr. C. Cornwall, one of the Lords of the Treasury, and afterwards Speaker of the House of Commons.

friendship, he will permit me to apply myself to the House under the sanction of his authority; and, on the various grounds he has measured out, to submit to you the poor opinions which I have formed, upon a matter of importance enough to demand the fullest consideration I could bestow upon it.

"He has stated to the House two grounds of deliberation: one narrow and simple, and merely confined to the question on your paper; the other more large and more complicated; comprehending the whole series of the Parliamentary proceedings with regard to America, their causes, and their consequences. With regard to the latter ground, he states it as useless, and thinks it may be even dangerous, to enter into so extensive a field of inquiry. Yet, to my surprise, he had hardly laid down this restrictive proposition, to which his authority would have given so much weight, when directly, and with the same authority, he condemns it; and declares it absolutely necessary to enter into the most ample historical detail. His zeal has thrown him a little out of his usual accuracy. In this perplexity what shall we do, Sir, who are willing to submit to the law he gives us? He has reprobated in one part of his speech the rule he had laid down for debate in the other; and, after narrowing the ground for all those who are to speak after him, he takes an excursion himself, as unbounded as the subject and the extent of his great abilities.

"Sir, when I cannot obey all his laws, I will do the best I can. I will endeavour to obey such of them as have the sanction of his example; and to stick to that rule, which, though not consistent with the other, is the most rational. He was certainly in the right when he took the matter largely. I cannot prevail on myself to agree with him in his censure of his own conduct. It is not, he will give me leave to say, either useless or dangerous. He asserts, that retrospect is not wise; and the proper, the only proper, subject of inquiry is, 'not how we got into this difficulty, but how we are to get out of it.' In other words, we are, according to him, to consult our invention, and to reject our experience. The mode of deliberation he recommends is diametrically opposite to every rule of reason, and every principle of good sense established amongst mankind. For, that sense and that reason, I have always understood, absolutely prescribe, whenever we are involved in difficulties from the measures we have pursued, that we should take a strict review of those measures, in order to correct our errors if they should be corrigible; or, at least to avoid a dull uniformity in mischief, and the unpitied calamity of being repeatedly caught in the same snare.

"Sir, I will freely follow the honourable gentleman in his historical discussion, withoutl the east management for men or measures, further than as they shall seem to me to deserve it. But before I go into that large consideration, because I would omit nothing that can give the House satisfaction, I wish to tread the narrow ground to which alone the honourable gentleman, in one part of his speech, has so strictly confined us.

"He desires to know, whether, if we were to repeal this tax, agreeably to the proposition of the honourable gentleman who made the motion, the Americans would not take post on this concession, in order to make a new

attack on the next body of taxes; and, whether they would not call for a repeal of the duty on wine as loudly as they do now for the repeal of the duty on tea? Sir, I can give no security on this subject. But I will do all that I can, and all that can be fairly demanded. To the *experience* which the honourable gentleman reprobates in one instant, and reverts to in the next; to that experience, without the least wavering or hesitation on my part, I steadily appeal; and would to God there was no other arbiter to decide on the vote with which the House is to conclude this day!

"When Parliament repealed the Stamp Act in the year 1766, I affirm, first, that the Americans did *not*, in consequence of this measure, call upon you to give up the former parliamentary revenue* which subsisted in that country; or even any one of the articles which compose it. I affirm, also, that when, departing from the maxims of that repeal, you revived the scheme of taxation, and thereby filled the minds of the colonists with new jealousy, and all sorts of apprehensions, then it was that they quarrelled with the old taxes, as well as with the new; then it was, and not till then, that they questioned all the parts of your legislative power; and, by the battery of such questions, have shaken the solid structure of this empire to its deepest foundations.

"Of those two propositions I shall, before I have done, give such convincing, such damning proof, that however the contrary may be whispered in circles, or bawled in newspapers, they never more will dare to raise their voices in this House. I speak with great confidence. I have reason for it. The ministers are with me. *They*, at least, are convinced that the repeal of the Stamp Act had not, and that no repeal can have, the consequences which the honourable gentleman who defends their measures is so much alarmed at. To their conduct I refer him for a conclusive answer to this objection. I carry my proof irresistibly into the very body of both ministry and parliament; not on any general reasoning growing out of collateral matter, but on the conduct of the honourable gentleman's ministerial friends on the new revenue itself.

"The act of 1767, which grants this tea duty, sets forth, in its preamble, that it was expedient to raise a revenue in America, for the support of the civil government there, as well as for purposes still more extensive. To this support the act assigns six branches of duties. About two years after this act passed, the ministry, I mean the present ministry, thought it expedient to repeal five of the duties, and to leave—for reasons best known to themselves—only the sixth standing.† Suppose any person, at the time of that repeal, had thus addressed the Minister:‡ 'Condemning, as you do, the repeal of the

* There is every reason to believe that the Americans would not have made opposition to duties imposed by Parliament on imports or exports for the mere regulation of trade and commerce.

† On the repeal of the revenue act of 1767, the duty on tea was retained, with the express purpose, as was alleged, of preserving the right of taxation, and not with the mere view to revenue.

‡ Lord North.

Stamp Act, why do you venture to repeal the duties upon glass, paper, and painters' colours? Let your pretence for the repeal be what it will, are you not thoroughly convinced, that your concessions will produce, not satisfaction, but insolence in the Americans; and that the giving up of these taxes will necessitate the giving up of all the rest?' This objection was as palpable then as it is now; and it was as good for preserving the five duties as for retaining the sixth. Besides, the minister will recollect, that the repeal of the Stamp Act had but just preceded his repeal; and the ill policy of that measure—had it been so impolitic as it has been represented,—and the mischiefs it produced, were quite recent. Upon the principles, therefore, of the honourable gentleman, upon the principles of the minister himself, the minister has nothing at all to answer. He stands condemned by himself, and by all his associates, old and new, as a destroyer, in the first trust of finance, of the revenues; and, in the first rank of honour, as a betrayer of the dignity of his country.

"Most men, especially great men, do not always know their well-wishers. I come to rescue that noble lord out of the hands of those he calls his friends; and even out of his own. I will do him the justice he is denied at home. He has not been this wicked or imprudent man. He knew that a repeal had no tendency to produce the mischiefs which give so much alarm to his honourable friend. His work was not bad in its principle, but imperfect in its execution; and the motion on your paper presses him only to complete a proper plan, which, by some unfortunate and unaccountable error, he had left unfinished.

"I hope, Sir, the honourable gentleman who spoke last, is thoroughly satisfied, and satisfied out of the proceedings of Ministry on their own favourite act, that his fears from a repeal are groundless. If he is not, I leave him, and the noble lord who sits by him, to settle the matter, as well as they can, together; for, if the repeal of American taxes destroys all our government in America—he is the man!—and he is the worst of all the repealers, because he is the last.

"But I hear it rung continually in my ears, now and formerly,—'The preamble! what will become of the preamble if you repeal this tax?' I am sorry to be compelled so often to expose the calamities and disgraces of Parliament. The preamble of this law, standing as it now stands, has the lie direct given to it by the provisionary part of the act, if that can be called provisionary which makes no provision. I should be afraid to express myself in this manner, especially in the face of such a formidable array of ability as is now drawn up before me, composed of the ancient household troops of that side of the House, and the new recruits from this, if the matter were not clear and indisputable. Nothing but truth could give me this firmness; but plain truth and clear evidence can be beat down by no ability. The clerk will be so good as to turn to the act, and to read this favourite preamble:"

[The clerk then read the preamble:—"Whereas, it is *expedient* that a revenue should be raised in your Majesty's dominions in America, for making a more *certain* and *adequate* provision for defraying the charge of the *adminis-*

tration of justice, and support of civil government, in such provinces where it shall be found necessary; and towards *further defraying* the expenses of *defending, protecting, and securing the said dominions.*"]

"You have heard this pompous performance. Now where is the revenue which is to do all these mighty things? Five-sixths repealed—abandoned—sunk—gone—lost for ever. Does the poor solitary tea duty support the purposes of this preamble? Is not the supply, there stated, as effectually abandoned as if the tea duty had perished in the general wreck? Here, Mr. Speaker, is a precious mockery—a preamble without an act—taxes granted in order to be repealed; and the reasons of the grant still carefully kept up! This is raising a revenue in America! This is preserving dignity in England! If you repeal this tax in compliance with the motion, I readily admit that you lose this fair preamble. Estimate your loss in it. The object of the act is gone already; and all you suffer is the purging the statute-book of the opprobrium of an empty, absurd, and false recital.

"It has been said again and again, that the five taxes were repealed on commercial principles. It is so said in the paper in my hand*; a paper which I constantly carry about; which I have often used, and shall often use again. What is got by this paltry pretence of commercial principles I know not; for, if your government in America is destroyed by the *repeal of taxes*, it is of no consequence upon what ideas the repeal is grounded. Repeal this tax, too, upon commercial principles if you please. These principles will serve as well now as they did formerly. But you know that either your objection to a repeal from these supposed consequences has no validity, or that this pretence never could remove it. This commercial motive never was believed by any man, either in America, which this letter is meant to soothe, or in England, which it is meant to deceive. It was impossible it should. Because every man, in the least acquainted with the detail of commerce, must know, that several of the articles on which the tax was repealed, were fitter objects of duties than almost any other articles that could possibly be chosen; without comparison more so, than the tea that was left taxed; as infinitely less liable to be eluded by contraband. The tax upon red and white lead was of this nature. You have in this kingdom an advantage in lead that amounts to a monopoly. When you find yourself in this situation of advantage, you sometimes venture to tax even your own export. You did so, soon after the last war; when, upon this principle, you ventured to impose a duty on coals. In all the articles of American contraband trade, who ever heard of the smuggling of red lead and white lead? You might, therefore, well enough, without danger of contraband, and without injury to commerce (if this were the whole consideration), have taxed these commodities. The same may be said of glass. Besides, some of the things taxed were so trivial, that the loss of the objects themselves, and their

* The circular letter from Lord Hillsborough (who filled the newly-created office of Secretary of State for America,) to the governors of the colonies, on the subject of the partial repeal of the revenue act of 1767.

utter annihilation out of American commerce, would have been comparatively as nothing. But is the article of tea such an object in the trade of England, as not to be felt, or felt but slightly, like white lead, and red lead, and painters' colours? Tea is an object of far other importance. Tea is perhaps the most important object, taking it with its necessary connexions, of any in the mighty circle of our commerce. If commercial principles had been the true motives to the repeal, or had they been at all attended to, tea would have been the last article we should have left taxed for a subject of controversy.

"Sir, it is not a pleasant consideration; but nothing in the world can read so awful and so instructive a lesson, as the conduct of Ministry in this business, upon the mischief of not having large and liberal ideas in the management of great affairs. Never have the servants of the state looked at the whole of your complicated interests in one connected view. They have taken things by bits and scraps, some at one time and one pretence, and some at another, just as they pressed, without any sort of regard to their relations or dependencies. They never had any kind of system, right or wrong; but only invented occasionally some miserable tale for the day, in order meanly to sneak out of difficulties, into which they had proudly strutted. And they were put to all these shifts and devices, full of meanness and full of mischief, in order to pilfer piecemeal a repeal of an act, which they had not the generous courage, when they found and felt their error, honourably and fairly to disclaim. By such management, by the irresistible operation of feeble councils, so paltry a sum as three-pence in the eyes of a financier, so insignificant an article as tea in the eyes of a philosopher, have shaken the pillars of a commercial empire that circled the whole globe.

"Do you forget that, in the very last year, you stood on the precipice of general bankruptcy? Your danger was indeed great. You were distressed in the affairs of the East India Company;* and you well know what sort of things are involved in the comprehensive energy of that significant appellation. I am not called upon to enlarge to you on that danger, which you thought proper yourselves to aggravate, and to display to the world with all the parade of indiscreet declamation. The monopoly of the most lucrative trades, and the possession of imperial revenues, had brought you to the verge of beggary and ruin. Such was your representation—such, in some measure, was your case. The vent of ten millions of pounds of this commodity, now locked up by the operation of an injudicious tax, and rotting in the warehouses of the Company, would have prevented all this distress, and all that series of desperate measures which you thought yourselves obliged to take in consequence of it. America would have furnished that vent, which no other part of the world can furnish but America; where tea is next to a necessary of life, and where the demand grows upon the supply. I hope our dear-bought East India committees have done us, at least,

* See ante p. 486.

so much good, as to let us know, that without a more extensive sale of that article our East India revenues and acquisitions can have no certain connexion with this country. It is through the American trade of tea that your East India conquests are to be prevented from crushing you with their burthen. They are ponderous indeed; and they must have that great country to lean upon, or they tumble upon your head. It is the same folly that has lost you at once the benefit of the west and of the east. This folly has thrown open folding doors to contraband: and will be the means of giving the profits of the trade of your colonies to every nation but yourselves. Never did a people suffer so much for the empty words of a preamble. It must be given up. For on what principle does it stand? This famous revenue stands, at this hour, on all the debate, as a description of revenue not as yet known in all the comprehensive (but too comprehensive!) vocabulary of finance—*a preambulary tax*. It is, indeed, a tax of sophistry, a tax of pedantry, a tax of disputation, a tax of war and rebellion, a tax for anything but benefit to the imposers, or satisfaction to the subject.

"Well! but whatever it is, gentlemen will force the colonists to take the teas. You will force them? Has seven years' struggle been yet able to force them? Oh, but it seems 'we are in the right. The tax is trifling; in effect, it is rather an exoneration than an imposition; three-fourths of the duty formerly payable on teas exported to America is taken off; the place of collection is only shifted; instead of the retention of a shilling from the drawback here, it is three-pence custom paid in America.' All this, Sir, is very true. But this is the very folly and mischief of the act. Incredible as it may seem, you know that you have deliberately thrown away a large duty which you held secure and quiet in your hands, for the vain hope of getting one three-fourths less, through every hazard, through certain litigation, and, possibly, through war.

"The manner of proceeding in the duties on paper and glass imposed by the same act, was exactly in the same spirit. There are heavy excises on those articles when used in England. On export, these excises are drawn back. But instead of withholding the drawback, which might have been done with ease, without charge, without the possibility of smuggling; and, instead of applying the money (money already in your hands) according to your pleasure, you began your operations in finance, by flinging away your revenue; you allowed the whole drawback on export, and then you charged the duty (which you had before discharged) payable in the colonies; where it was certain the collection would devour it to the bone; if any revenue were ever suffered to be collected at all. One spirit pervades and animates the whole mass.

"Could anything be a subject of more just alarm to America, than to see you go out of the plain high road of finance, and give up your most certain revenues and your most clearest interest, merely for the sake of insulting your colonies? No man ever doubted that the commodity of tea could bear an imposition of three-pence. But no commodity will bear three-pence, or

will bear a penny, when the general feelings of men are irritated, and two millions of people are resolved not to pay. The feelings of the colonies were formerly the feelings of Great Britain. Theirs were formerly the feelings of Mr. Hampden* when called upon for the payment of twenty shillings. Would twenty shillings have ruined Mr. Hampden's fortune? No! but the payment of half twenty shillings, on the principle it was demanded, would have made him a slave It is the weight of that preamble, of which you are so fond, and not the weight of the duty, that the Americans are unable and unwilling to bear.

"It is, then, Sir, upon the *principle* of this measure, and nothing else, that we are at issue. It is a principle of political expediency. Your act of 1767 asserts that it is expedient to raise a revenue in America; your act of 1769, which takes away that revenue, contradicts the act of 1767; and, by something much stronger than words, asserts, that it is not expedient. It is a reflection upon your wisdom to persist in a solemn parliamentary declaration of the expediency of any object, for which, at the same time, you make no sort of provision. And pray, Sir, let not this circumstance escape you; it is very material: that the preamble of this act, which we wish to repeal, is not *declaratory of right*, as some gentlemen seem to argue it; it is only a recital of the *expediency* of a certain exercise of a right supposed already to have been asserted; an exercise you are now contending for by ways and means which you confess, though they were obeyed, to be utterly insufficient for their purpose. You are therefore at this moment in the awkward situation of fighting for a phantom; a quiddity; a thing that wants not only a substance, but even a name; for a thing which is neither abstract right nor profitable enjoyment.

"They tell you, Sir, that your dignity is tied to it. I know not how it happens, but this dignity of yours is a terrible incumbrance to you; for it has, of late, been ever at war with your interest, your equity, and every idea of your policy. Show the thing you contend for to be reason; show it to be common sense; show it to be the means of attaining some useful end; and then I am content to allow it what dignity you please. But what dignity is derived from the perseverance in absurdity is more than I ever could discern. The honourable gentlemen has said well—indeed, in most of his *general* observations I agree with him—he says, that this subject does not stand as it did formerly. Oh, certainly not! every hour you continue on this ill-chosen ground, your difficulties thicken on you; and therefore my conclusion is, Remove from a bad position as quickly as you can. The disgrace, and the necessity of yielding, both of them, grow upon you every hour of your delay.

"'But will you repeal the act,' says the honourable gentleman, 'at this instant when America is in open resistance to your authority, and that you

* The celebrated patriot in the reign of Charles I., who opposed the unconstitutional levying of Ship-money without the authority of Parliament.

have just revived your system of taxation?' He thinks he has driven us into a corner. But thus pent up, I am content to meet him; because I enter the lists supported by my old authority, his new friends, the Ministers themselves. The honourable gentleman remembers, that, about five years ago, as great disturbances as the present prevailed in America on account of the new taxes. The ministers represented these disturbances as treasonable; and this House thought proper, on that representation, to make a famous address for a revival, and for a new application of a statute of Henry VIII.* We besought the King, in that well-considered address, to inquire into treasons, and to bring the supposed traitors from America to Great Britain for trial. His Majesty was pleased graciously to promise a compliance with our request. All the attempts from this side of the House to resist these violences, and to bring about a repeal, were treated with the utmost scorn. An apprehension of the very consequences now stated by the honourable gentleman, was then given as a reason for shutting the door against all hope of such an alteration. And so strong was the spirit for supporting the new taxes, that the session concluded with the following remarkable declaration. After stating the vigorous measures which had been pursued, the speech from the throne proceeds:—

"'You have assured me of your *firm* support in the *prosecution* of them. Nothing, in my opinion, could be more likely to enable the well-disposed among my subjects in that part of the world effectually to discourage and defeat the designs of the factious and seditious, than the hearty concurrence of every branch of the legislature, in *maintaining the execution of the laws in every* part of my dominions.'

"After this no man dreamt that a repeal under this ministry could possibly take place. The honourable gentleman knows as well as I, that the idea was utterly exploded by those who sway the House. This speech was made on the ninth day of May, 1769. Five days after this speech, that is, on the 13th of the same month, the public circular letter, a part of which I am going to read to you, was written by Lord Hillsborough, secretary of state for the colonies. After reciting the substance of the King's speech, he goes on thus:—

"'I can take upon me to assure you, notwithstanding insinuations to the contrary, from men with *factious* and *seditious* views, that his Majesty's present administration have at no time entertained a design to propose to Parliament to lay any further taxes upon America, for the purpose of *raising a revenue;* and that it is at present their intention to propose, the next session of Par-

* Irritated at the violent opposition of the inhabitants of Boston to the Revenue Act of 1767, both Houses of Parliament, in February 1769, concurred in an address to the King, praying that he would, in exercise of the powers contained in the obsolete statute of 35, Henry VIII., cause the most conspicuous offenders to be seized and tried by a Special Commission in Great Britain. The only effect of these resolutions of Parliament on the Americans was to make them more strict in preventing all commercial intercourse with the mother country.

liament, to take off the duties upon glass, paper, and colours, upon consideration of such duties having been laid contrary to the true principles of commerce.

"'These have always been, and still are, the sentiments of his Majesty's present servants; and by which their conduct in respect to America has been governed. And his Majesty relies upon your prudence and fidelity for such an explanation of his measures, as may tend to remove the prejudices which have been excited by the misrepresentations of those who are enemies to the peace and prosperity of Great Britain and her colonies; and to re-establish that mutual confidence and affection, upon which the glory and safety of the British empire depend.'

"Here, Sir, is a canonical book of ministerial scripture—the general epistle to the Americans. What does the gentleman say to it? Here a repeal is promised; promised without condition; and while your authority was actually resisted. I pass by the public promise of a peer relative to the repeal of taxes by this house. I pass by the use of the King's name in a matter of supply, that sacred and reserved right of the Commons. I conceal the ridiculous figure of Parliament, hurling its thunders at the gigantic rebellion of America; and then, five days after, prostrate at the feet of those assemblies we affected to despise: begging them, by the intervention of our ministerial sureties, to receive our submission, and heartily promising amendment. These might have been serious matters formerly; but we are grown wiser than our fathers. Passing, therefore, from the constitutional consideration to the mere policy, does not this letter imply, that the idea of taxing America for the purpose of revenue is an abominable project; when the ministry suppose none but *factious* men, and with *seditious* views, could charge them with it? Does not this letter adopt and sanctify the American distinction of *taxing for a revenue?* Does it not formally reject all future taxation on that principle? Does it not state the ministerial rejection of such principle of taxation, not as the occasional, but the constant opinion of the King's servants? Does it not say (I care not how consistently), but does it not say, that their conduct with regard to America has been *always* governed by this policy? It goes a great deal further. These excellent and trusty servants of the King, justly fearful lest they themselves should have lost all credit with the world, bring out the image of their gracious sovereign from the inmost and most sacred shrine, and they pawn him as a security for their promises—'*His Majesty* relies on your prudence and fidelity for such an explanation of *his* measures.' These sentiments of the Minister, and these measures of his Majesty, can only relate to the principle and practice of taxing for a revenue; and accordingly Lord Botetourt, stating it as such, did, with great propriety, and in the exact spirit of his instructions, endeavour to remove the fears of the Virginian Assembly, lest the sentiments, which it seems (unknown to the world) had 'always' been those of the Ministers, and by which 'their conduct in respect to America had been governed,' should by some possible revolution, favourable to wicked American taxes, be hereafter counteracted. He addresses them in this manner: 'It may possibly be objected, that, as his Majesty's present Administration are not immortal, their successors may be inclined to attempt to undo

what the present Ministers shall have attempted to perform; and to that objection I can give but this answer—that it is my firm opinion, that the plan I have stated to you will certainly take place, and that it will never be departed from; and so determined am I for ever to abide by it, that I will be content to be declared infamous, if I do not, to the last hour of my life, at all times, in all places, and upon all occasions, exert every power with which I either am or ever shall be legally invested, in order to obtain and maintain for the continent of America that satisfaction which I have been authorised to promise this day, by the confidential servants of our gracious Sovereign, who, to my certain knowledge, rates his honour so high, that he would rather part with his crown than preserve it by deceit.'

"A glorious and true character! which (since we suffer his Ministers, with impunity, to answer for his ideas of taxation) we ought to make it our business to enable his Majesty to preserve in all its lustre. Let him have character, since ours is no more! Let some part of Government be kept in respect!

"This epistle was not the letter of Lord Hillsborough solely; though he held the official pen. It was the letter of the noble lord upon the floor,* and of all the King's then Ministers, who (with, I think, the exception of two only) are his Ministers at this hour. The very first news that a British Parliament heard of what it was to do with the duties which it had given and granted to the King, was by the publication of the votes of American assemblies. It was in America that your resolutions were pre-declared. It was from thence that we knew to a certainty, how much exactly, and not a scruple more or less, we were to repeal. We were unworthy to be let into the secret of our own conduct. The assemblies had *confidential* communications from his Majesty's *confidential servants*. We were nothing but instruments. Do you, after this, wonder that you have no weight and no respect in the colonies? After this, are you surprised that Parliament is every day and everywhere losing (I feel it with sorrow, I utter it with reluctance) that reverential affection, which so endearing a name of authority ought ever to carry with it; that you are obeyed solely from respect to the bayonet; and that this house, the ground and pillar of freedom, is itself held up only by the treacherous under-pinning and clumsy buttresses of arbitrary power?

"If this dignity, which is to stand in the place of just policy and common sense, had been consulted, there was a time for preserving it, and for reconciling it with any concession. If in the session of 1768, that session of idle terror and empty menaces, you had, as you were often pressed to do, repealed these taxes, then your strong operations would have come justified and enforced, in case your concessions had been returned by outrages. But, preposterously, you began with violence; and before terrors could have any effect, either good or bad, your Ministers immediately begged pardon, and promised that repeal to the obstinate Americans which they had refused in an easy, good-natured, complying British Parliament. The assemblies, which

* Lord North.

had been publicly and avowedly dissolved for *their* contumacy, are called together to receive *your* submission. Your ministerial directors blustered like tragic tyrants here; and then went mumping with a sore leg in America, canting and whining, and complaining of faction, which represented them as friends to a revenue from the colonies. I hope nobody in this house will hereafter have the impudence to defend American taxes in the name of Ministry; the moment they do, with this letter of attorney* in my hand, I will tell them, in the authorised terms, they are wretches, 'with factious and seditious views; enemies to the peace and prosperity of the mother country and the colonies,' and subverters 'of the mutual affection and confidence on which the glory and safety of the British empire depend.'

"After this letter, the question is no more on propriety or dignity. They are gone already. The faith of your Sovereign is pledged for the political principle. The general declaration in the letter goes to the whole of it. You must, therefore, either abandon the scheme of taxing, or you must send the Ministers tarred and feathered to America, who dared to hold out the royal faith for a renunciation for all taxes for revenue. Them you must punish, or this faith you must preserve. The preservation of this faith is of more consequence than the duties on red lead, or white lead, or on broken glass, or atlas-ordinary, or demy-fine, or blue royal, or bastard, or foolscap, which you have given up; or the threepence on tea which you retained. The letter went stamped with the public authority of this kingdom. The instructions for the colony Government go under no other sanction; and America cannot believe, and will not obey you, if you do not preserve this channel of communication sacred. You are now punishing the colonies for acting on distinctions, held out by that very ministry which is here shining in riches, in favour, and in power; and urging the punishment of the very offence to which they had themselves been the tempters.

"Sir, if reasons respecting simply your own commerce, which is your own convenience, were the sole grounds of the repeal of the five duties, why does Lord Hillsborough, in disclaiming, in the name of the King and Ministry, their ever having had an intent to tax for revenue, mention it as the means 'of re-establishing the confidence and affection of the colonies?' Is it a way of soothing others, to assure them that you will take good care of yourself? The medium, the only medium, for regaining their affection and confidence, is, that you will take off something oppressive to their minds. Sir, the letter strongly enforces that idea: for though the repeal of the taxes is promised on commercial principles, yet the means of counteracting 'the insinuations of men with factious and seditious views,' is, by a disclaimer of the intention of taxing for revenue, as a constant invariable sentiment and rule of conduct in the Government of America.

"I remember that the noble lord on the floor, not in a former debate to be sure, (it would be disorderly to refer to it, I suppose I read it somewhere,)

* Lord Hillsborough's Letter.

but the noble lord was pleased to say, that he did not conceive how it could enter into the head of man to impose such taxes as those of 1767; I mean those taxes which he voted for imposing, and voted for repealing; as being taxes, contrary to all the principles of commerce, laid on British manufactures.

"I dare say the noble lord is perfectly well read, because the duty of his particular office requires he should be so, in all our revenue laws, and in the policy which is to be collected out of them. Now, Sir, when he had read this act of American revenue, and a little recovered from his astonishment, I suppose he made one step retrograde (it is but one), and looked at the act which stands just before in the statute-book. The American revenue act is the forty-fifth chapter; the other to which I refer is the forty-fourth of the same session. These two acts are both to the same purpose; both revenue acts; both taxing out of the kingdom; and both taxing British manufactures exported. As the forty-fifth is an act for raising a revenue in America, the forty-fourth is an act for raising a revenue in the Isle of Man. The two acts perfectly agree in all respects, except one. In the act for taxing the Isle of Man, the noble lord will find (not, as in the American act, four or five articles,) but almost the whole body of British manufactures, taxed from two and a half to fifteen per cent., and some articles, such as that of spirits, a great deal higher. You did not think it uncommercial to tax the whole mass of your manufactures, and, let me add, your agriculture too; for, I now recollect, British corn is there also taxed up to ten per cent., and this too in the very head-quarters, the very citadel of smuggling, the Isle of Man. Now, will the noble lord condescend to tell me why he repealed the taxes on your manfactures sent out to America, and not the taxes on the manufactures exported to the Isle of Man? The principle was exactly the same, the objects charged infinitely more extensive, the duties, without comparison, higher. Why? why, notwithstanding all his childish pretexts, because the taxes were quietly submitted to in the Isle of Man, and because they raised a flame in America. Your reasons were political, not commercial. The repeal was made, as Lord Hillsborough's letter well expresses it, to regain 'the confidence and affection of the colonies, on which the glory and safety of the British empire depend.' A wise and just motive surely, if ever there was such. But the mischief and dishonour is, that you have not done what you had given the colonies just cause to expect, when your ministers disclaimed the idea of taxes for a revenue. There is nothing simple, nothing manly, nothing ingenuous, open, decisive, or steady, in the proceeding, with regard either to the continuance or the repeal of the taxes. The whole has an air of littleness and fraud. The article of tea is slurred over in the circular letter, as it were by accident—nothing is said of a resolution either to keep that tax, or to give it up. There is no fair dealing in any part of the transaction.

"If you mean to follow your true motive and your public faith, give up your tax on tea for raising a revenue, the principle of which has, in effect, been disclaimed in your name; and which produces you no advantage; no, not a

penny. Or, if you choose to go on with a poor pretence instead of a solid reason, and will still adhere to your cant of commerce, you have ten thousand times more strong commercial reasons for giving up this duty on tea, than for abandoning the five others that you have already renounced.

"The American consumption of teas is annually, I believe, worth £300,000 at the least farthing. If you urge the American violence as a justification of your perseverance in enforcing this tax, you know that you can never answer this plain question. Why did you repeal the others given in the same act, whilst the very same violence subsisted? But you did not find the violence cease upon that concession. No! because the concession was far short of satisfying the principle which Lord Hillsborough had abjured; or even the pretence on which the repeal of the other taxes was announced; and because, by enabling the East India Company to open a shop for defeating the American resolution not to pay that specific tax, you manifestly showed a hankering after the principle of the act which you formerly had renounced. Whatever road you take leads to a compliance with this motion. It opens to you at the end of every vista. Your commerce, your policy, your promises, your reasons, your pretences, your consistency, your inconsistency—all jointly oblige you to this repeal.

"But still it sticks in our throats: if we go so far, the Americans will go farther. We do not know that. We ought, from experience, rather to presume the contrary. Do we not know for certain that the Americans are going on as fast as possible, whilst we refuse to gratify them? Can they do more, or can they do worse, if we yield this point? I think this concession will rather fix a turnpike to prevent a further progress. It is impossible to answer for bodies of men. But I am sure the natural effect of fidelity, clemency, kindness in governors, is peace, good-will, order, and esteem, on the part of the governed. I would certainly, at least, give these fair principles a fair trial; which, since the making of this act to this hour, they never have had.

"Sir, the honourable gentleman having spoken what he thought necessary upon the narrow part of the subject, I have given him, I hope, a satisfactory answer. He next presses me by a variety of direct challenges and oblique reflections to say something on the historical part. I shall, therefore, Sir, open myself fully on that important and delicate subject; not for the sake of telling you a long story (which I know, Mr. Speaker, you are not particularly fond of), but for the sake of the weighty instruction that, I flatter myself, will necessarily result from it. It shall not be longer, if I can help it, than so serious a matter requires.

"Permit me then, Sir, to lead your attention very far back; back to the act of navigation,* the corner-stone of policy of this country with regard to

* This celebrated Act was passed by the Commonwealth Parliament, Oct. 9th, 1651, and prohibited the importation, in foreign vessels, into England or any of her dependencies, of any commodity which was not the growth and manufacture of the respective countries, in the vessels of which they were imported. The original object of the

its colonies. Sir, that policy was, from the beginning, purely commercial; and the commercial system was wholly restrictive. It was the system of a monopoly. No trade was let loose from that constraint, but merely to enable the colonists to dispose of what, in the course of your trade, you could not take; or to enable them to dispose of such articles as we forced upon them, and for which, without some degree of liberty, they could not pay. Hence all your specific and detailed enumerations: hence the innumerable checks and counterchecks: hence that infinite variety of paper chains by which you bind together this complicated system of the colonies. This principle of commercial monopoly runs through no less than twenty-nine acts of parliament, from the year 1660 to the unfortunate period of 1764.

"In all those acts the system of commerce is established, as that from whence alone you proposed to make the colonies contribute (I mean directly and by the operation of your superintending legislative power) to the strength of the empire. I venture to say, that during that whole period, a parliamentary revenue from thence was never once in contemplation. Accordingly, in all the number of laws passed with regard to the plantations, the words which distinguish revenue laws, specifically as such, were, I think, premeditatedly avoided. I do not say, Sir, that a form of words alters the nature of the law, or abridges the power of the lawgiver. It certainly does not. However, titles and formal preambles are not always idle words; and the lawyers frequently argue from them. I state these facts to show, not what was your right, but what has been your settled policy. Our revenue laws have usually a title, purporting their being grants; and the words 'give and grant' usually precede the enacting parts. Although duties were imposed on America in acts of King Charles the Second, and in acts of King William, no one title of giving 'an aid to his Majesty,' or any other of the usual titles to revenue acts, was to be found in any of them till 1764; nor were the words 'give and grant' in any preamble until the 6th of George the Second. However, the title of this act of George the Second, notwithstanding the words of donation, considers it merely as a regulation of trade, 'an act for the better securing of the trade of his Majesty's sugar colonies in America.' This act was made on a compromise of all, and at the express desire of a part of the colonies themselves. It was, therefore, in some measure with their consent; and having a title directly purporting only a commercial regulation, and being in truth nothing more, the words were passed by, at a time when no jealousy was entertained, and things were little scrutinized. Even Governor Bernard,* in his second printed letter, dated in 1763, gives it as his opinion, that 'it was

Navigation Act was to transfer from the Dutch to the English shipping, the immense carrying trade which was almost entirely engrossed by the former. The injury sustained by the Dutch from this measure brought on an obstinate and bloody war, but its vast importance to this country has always prevented any relaxation. At the Restoration the Act of 12 Car. II, c. 18, was passed for the purpose of conferring still further monopoly and protection to the British shipping.

* The British Governor of Massachusetts.

an act of prohibition, not of revenue.' This is certainly true, that no act avowedly for the purpose of revenue, and with the ordinary title and recital taken together, is found in the statute book until the year I have mentioned ; that is, the year 1764. All before this period stood on commercial regulation and restraint. The scheme of a colony revenue by British authority appeared therefore to the Americans in the light of a great innovation; the words of Governor Bernard's ninth letter, written in November, 1765, state this idea very strongly; 'it must,' says he, 'have been supposed, such an innovation as a parliamentary taxation would cause a great alarm, and meet with much opposition in most parts of America; it was quite new to the people, and had no visible bounds set to it.' After stating the weakness of government there, he says, 'Was this a time to introduce so great a novelty as a parliamentary inland taxation in America?' Whatever the right might have been, this mode of using it was absolutely new in policy and practice.

"Sir, they who are friends to the schemes of American revenue say, that the commercial restraint is full as hard a law for America to live under. I think so too. I think it, if uncompensated, to be a condition of as rigorous servitude as men can be subject to. But America bore it from the fundamental act of navigation until 1764.—Why? Because men do bear the inevitable constitution of their original nature with all its infirmities. The act of navigation attended the colonies from their infancy, grew with their growth, and strengthened with their strength. They were confirmed in obedience to it, even more by usage than by law. They scarcely had remembered a time when they were not subject to such restraint. Besides, they were indemnified for it by a pecuniary compensation. Their monopolist happened to be one of the richest men in the world.* By his immense capital (primarily employed, not for their benefit, but his own) they were enabled to proceed with their fisheries, their agriculture, their ship-building (and their trade too, within the limits), in such a manner as got far the start of the slow languid operations of unassisted nature. This capital was a hot-bed to them. Nothing in the history of mankind is like their progress. For my part, I never cast an eye on their flourishing commerce, and their cultivated and commodious life, but they seem to me rather ancient nations grown to perfection through a long series of fortunate events, and a train of successful industry, accumulating wealth in many centuries, than the colonies of yesterday; than a set of miserable outcasts, a few years ago, not so much sent as thrown out, on the bleak and barren shore of a desolate wilderness three thousand miles from all civilised intercourse.

"All this was done by England, while England pursued trade and forgot revenue. You not only acquired commerce, but you actually created the very objects of trade in America; and by that creation you raised the trade of this kingdom at least four-fold. America had the compensation of your capital, which made her bear her servitude. She had another compensation, which

* That is, Great Britain personified as John Bull.

you are now going to take away from her. She had, except the commercial restraint, every characteristic mark of a free people in all her internal concerns. She had the image of the British constitution. She had the substance. She was taxed by her own representatives. She chose most of her own magistrates. She paid them all. She had in effect the sole disposal of her own internal government. This whole state of commercial servitude and civil liberty, taken together, is certainly not perfect freedom; but comparing it with the ordinary circumstances of human nature, it was a happy and a liberal condition.

"I know, Sir, that great and not unsuccessful pains have been taken to inflame our minds by an outcry, in this House and out of it, that in America the act of navigation neither is, nor ever was, obeyed. But if you take the colonies through, I affirm, that its authority never was disputed; that it was no where disputed for any length of time; and, on the whole, that it was well observed. Wherever the act pressed hard, many individuals, indeed, evaded it. This is nothing. These scattered individuals never denied the law, and never obeyed it. Just as it happens whenever the laws of trade, whenever the laws of revenue press hard upon the people in England; in that case all your shores are full of contraband. Your right to give a monopoly to the East India Company, your right to lay immense duties on French brandy, are not disputed in England. You do not make this charge on any man. But you know that there is not a creek from Pentland Frith to the Isle of Wight, in which they do not smuggle immense quantities of teas, East India goods, and brandies. I take it for granted, that the authority of Governor Bernard in this point is indisputable. Speaking of these laws, as they regarded that part of America now in so unhappy a condition, he says 'I believe they are nowhere better supported than in this province; I do not pretend that it is entirely free from a breach of these laws; but that such a breach, if discovered, is justly punished.' What more can you say of the obedience to any laws in any country? An obedience to these laws formed the acknowledgment instituted by yourselves, for your superiority; and was the payment you originally imposed for your protection.

"Whether you were right or wrong in establishing the colonies on the principles of commercial monopoly, rather than on that of revenue, is at this day a problem of mere speculation. You cannot have both by the same authority. To join together the restraints of an universal internal and external monopoly, with an universal internal and external taxation, is an unnatural union,—perfect uncompensated slavery. You have long since decided for yourself and them; and you and they have prospered exceedingly under that decision.

"This nation, Sir, never thought of departing from that choice until the period immediately on the close of the last war. Then a scheme of government new in many things seemed to have been adopted. I saw, or thought I saw, several symptoms of a great change, whilst I sat in your gallery, a good while before I had the honour of a seat in this House. At that period

the necessity was established of keeping up no less than twenty new regiments, with twenty colonels capable of seats in this House. This scheme was adopted with very general applause from all sides, at the very time that, by your conquests in America, your danger from foreign attempts in that part of the world was much lessened, or indeed rather quite over. When this huge increase of military establishment was resolved on, a revenue was to be found to support so great a burthen. Country gentlemen, the great patrons of economy, and the great resisters of a standing armed force, would not have entered with much alacrity into the vote for so large and so expensive an army, if they had been very sure that they were to continue to pay for it. But hopes of another kind were held out to them ; and in particular, I well remember, that Mr. Townshend, in a brilliant harangue on this subject, did dazzle them, by playing before their eyes the image of a revenue to be raised in America.

" Here began to dawn the first glimmerings of this new colony system. It appeared more distinctly afterwards, when it was devolved upon a person to whom, on other accounts, this country owes very great obligations. I do believe that he had a very serious desire to benefit the public. But with no small study of the detail, he did not seem to have his view, at least equally, carried to the total circuit of our affairs. He generally considered his objects in lights that were rather too detached. Whether the business of an American revenue was imposed upon him altogether ; whether it was entirely the result of his own speculation ; or, what is more probable, that his own ideas rather coincided with the instructions he had received; certain it is, that, with the best intentions in the world, he first brought this fatal scheme into form, and established it by act of parliament.

" No man can believe, that at this time of day I mean to lean on the venerable memory of a great man, whose loss we deplore in common. Our little party-differences have been long ago composed ; and I have acted more with him, and certainly with more pleasure with him, than ever I acted against him. Undoubtedly Mr. Grenville was a first-rate figure in this country. With a masculine understanding, and a stout and resolute heart, he had an application undissipated and unwearied. He took public business, not as a duty which he was to fulfil, but as a pleasure he was to enjoy; and he seemed to have no delight out of this House, except in such things as some way related to the business that was to be done within it. If he was ambitious, I will say this for him, his ambition was of a noble and generous strain. It was to raise himself, not by the low, pimping politics of a court, but to win his way to power, through the laborious gradations of public service ; and to secure himself a well-earned rank in Parliament, by a thorough knowledge of its constitution, and a perfect practice in all its business.

" Sir, if such a man fell into errors, it must be from defects not intrinsical ; they must be rather sought in the particular habits of his life ; which, though they do not alter the ground-work of character, yet tinge it with their own hue. He was bred in a profession. He was bred to the law,

which is, in my opinion, one of the first and noblest of human sciences; a science which does more to quicken and invigorate the understanding, than all the other kinds of learning put together; but it is not apt, except in persons very happily born, to open and to liberalise the mind exactly in the same proportion. Passing from that study he did not go very largely into the world; but plunged into business,—I mean, into the business of office; and the limited and fixed methods and forms established there. Much knowledge is to be had undoubtedly in that line; and there is no knowledge which is not valuable. But it may be truly said, that men too much conversant in office, are rarely minds of remarkable enlargement. Their habits of office are apt to give them a turn to think the substance of business not to be much more important than the forms in which it is conducted. These forms are adapted to ordinary occasions; and, therefore, persons who are nurtured in office, do admirably well, as long as things go on in their common order; but when the high roads are broken up, and the waters out; when a new and troubled scene is opened, and the file affords no precedent, then it is that a greater knowledge of mankind, and a far more extensive comprehension of things, is requisite, than ever office gave, or than office can ever give. Mr. Grenville thought better of the wisdom and power of human legislation, than, in truth, it deserves. He conceived, and many conceived along with him, that the flourishing trade of this country was greatly owing to law and institution, and not quite so much to liberty; for but too many are apt to believe regulation to be commerce, and taxes to be revenue. Among regulations, that which stood first in reputation was his idol: I mean, the Act of Navigation. He has often professed it to be so. The policy of that Act is, I readily admit, in many respects well understood. But I do say, that if the Act be suffered to run the full length of its principle, and is not changed and modified according to the change of times and the fluctuation of circumstances, it must do great mischief, and frequently even defeat its own purpose.

"After the war, and in the last years of it, the trade of America had increased far beyond the speculations of the most sanguine imaginations. It swelled out on every side. It filled all its proper channels to the brim. It overflowed with a rich redundance, and, breaking its banks on the right and on the left, it spread out upon some places where it was, indeed, improper, upon others where it was only irregular. It is the nature of all greatness not to be exact; and great trade will always be attended with considerable abuses. The contraband will always keep pace, in some measure, with the fair trade. It should stand as a fundamental maxim, that no vulgar precaution ought to be employed in the cure of evils which are closely connected with the cause of our prosperity. Perhaps this great person turned his eyes somewhat less than was just, towards the incredible increase of the fair trade; and looked with something of too exquisite a jealousy towards the contraband. He certainly felt a singular degree of anxiety on the subject; and even began to act from that passion earlier than is commonly imagined.

For whilst he was First Lord of the Admiralty, though not strictly called upon in his official line, he presented a very strong memorial to the Lords of the Treasury (my Lord Bute was then at the head of the Board); heavily complaining of the growth of the illicit commerce in America. Some mischief happened even at that time from this over-earnest zeal. Much greater happened afterwards when it operated with greater power in the highest department of the finances. The bonds of the Act of Navigation were straitened so much, that America was on the point of having no trade, either contraband or legitimate.* They found, under the construction and execution then used, the Act, no longer tying, but actually strangling them. All this coming with new enumerations of commodities; with regulations which, in a manner, put a stop to the mutual coasting intercourse of the colonies; with the appointment of courts of admiralty under various improper circumstances; with a sudden extinction of the paper currencies;† with a compulsory provision for the quartering of soldiers; the people of America thought themselves proceeded against as delinquents, or, at best, as people under suspicion of delinquency; and in such a manner as, they imagined, their recent services in the war‡ did not at all merit. Any of these innumerable regulations, perhaps, would not have alarmed alone: some might be thought reasonable; the multitude struck them with terror.

"But the grand manœuvre in that business of new regulating the colonies, was the fifteenth act of the 4th of George III.; which, besides containing several of the matters to which I have just alluded, opened a new principle: and here properly began the second period of the policy of this country with regard to the colonies; by which the scheme of a regular plantation parliamentary revenue was adopted in theory, and settled in practice. A revenue not substituted in the place of, but superadded to, a monopoly; which

* For a long series of years prior to 1764, a very extensive commerce had existed between the Eastern States of America and the Spanish and French Colonies, in articles of British manufacture; the profits of which were divided between the American colonists and their correspondents in the mother country. This course of traffic, though not repugnant to the spirit, was contrary to the letter, of the Navigation Acts; and the British Ministry, in 1764, put a stop to it by issuing strict orders to the revenue cutters to seize all vessels engaged in it. In the same year, they caused the act of 4th of George III., cap. 15 (afterwards alluded to by Mr. Burke), to be passed, authorising the trade between the North Americans and the French and Spanish Colonies; but loaded it with such duties, as, in fact, amounted to a prohibition. By one of the provisions of this act, all offenders were to be prosecuted in the Court of Admiralty, where they were deprived of a trial by jury.

† The colonial Assemblies, during the war, had been in the habit of issuing bills, which had been treated as legal tenders of money. In consequence of some inconvenience felt by the depreciation in the value of these bills, an act was passed, at the instance of Mr. Grenville, prohibiting them, in future, from being legal tenders.

‡ The North American colonies entered into the war with France in 1756—1763 (which ended in the cession of Canada and the Floridas to Great Britain), with such zeal, that some of them advanced funds for its prosecution to a greater amount than the quota required of them by the British Government.

monopoly was enforced at the same time with additional strictness, and the execution put into military hands.

"This act, Sir, had, for the first time, the title of 'granting duties in the colonies and plantations of America;' and, for the first time, it was asserted in the preamble, that it was '*just* and *necessary* that a revenue should be raised there.' Then came the technical words of 'giving and granting,' and thus a complete American revenue act was made in all the forms, and with a full avowal of the right, equity, policy, and even necessity of taxing the colonies, without any formal consent of theirs. There are contained also in the preamble to that act these very remarkable words—the Commons, &c.—'being desirous to make *some* provision in the *present* session of Parliament towards raising the said revenue.' By these words it appeared to the colonies, that this act was but a beginning of sorrows; that every session was to produce something of the same kind; that we were to go on from day to day, in charging them with such taxes as we pleased, for such a military force as we should think proper. Had this plan been pursued, it was evident that the provincial Assemblies, in which the Americans felt all their portion of importance, and beheld their sole image of freedom, were *ipso facto* annihilated. This ill prospect before them seemed to be boundless in extent, and endless in duration. Sir, they were not mistaken. The ministry valued themselves when this act passed, and when they gave notice of the Stamp Act, that both of the duties came very short of their ideas of American taxation. Great was the applause of this measure here. In England we cried out for new taxes on America, whilst they cried out that they were nearly crushed with those which the war and their own grants had brought upon them.

"Sir, it has been said in the debate, that when the first American revenue act—the act in 1764, imposing the port duties—passed, the Americans did not object to the principle. It is true they touched it but very tenderly. It was not a direct attack. They were, it is true, as yet novices; as yet unaccustomed to direct attacks upon any of the rights of parliament. The duties were port duties, like those they had been accustomed to bear; with this difference, that the title was not the same, the preamble not the same, and the spirit altogether unlike. But of what service is this observation to the cause of those that make it? It is a full refutation of the pretence for their present cruelty to America; for it shows, out of their own mouths, that our colonies were backward to enter into the present vexatious and ruinous controversy.

"There is also another circulation abroad—spread with a malignant intention, which I cannot attribute to those who say the same thing in this House—that Mr. Grenville gave the colony agents an option for their assemblies to tax themselves, which they had refused. I find that much stress is laid on this, as a fact. However, it happens neither to be true nor possible. I will observe, first, that Mr. Grenville never thought fit to make this apology for himself in the innumerable debates that were had upon the subject. He might have proposed to the colony agents, that they should agree in some mode of

taxation as the ground of an act of parliament. But he never could have proposed that they should tax themselves on requisition, which is the assertion of the day. Indeed, Mr. Grenville well knew, that the colony agents could have no general powers to consent to it; and they had no time to consult their assemblies for particular powers before he passed his first revenue act. If you compare dates, you will find it impossible. Burthened, as the agents knew the colonies were at that time, they could not give the least hope of such grants. His own favourite governor was of opinion that the Americans were not then taxable objects:—

"'Nor was the time less favourable to the equity of such a taxation. I don't mean to dispute the reasonableness of America contributing to the charges of Great Britain when she is able; nor, I believe, would the Americans themselves have disputed it, at a proper time and season. But it should be considered, that the American governments themselves have, in the prosecution of the late war, contracted very large debts; which it will take some years to pay off, and in the mean time occasion very burdensome taxes for that purpose only. For instance, this government, which is as much beforehand as any, raises every year £37,500 sterling for sinking their debt, and must continue it for four years longer at least, before it will be clear.'

"These are the words of Governor Bernard's letter to a member of the old ministry, and which he has since printed. Mr. Grenville could not have made this proposition to the agents for another reason. He was of opinion, which he has declared in this House a hundred times, that the colonies could not legally grant any revenue to the Crown; and that infinite mischiefs would be the consequence of such a power. When Mr. Grenville had passed the first revenue-act, and in the same session had made this House come to a resolution for laying a stamp duty on America, between that time and the passing of the Stamp Act into a law, he told a considerable and most respectable merchant, a member of this House, whom I am truly sorry I do not now see in his place, when he represented against this proceeding, that if the stamp duty was disliked, he was willing to exchange it for any other equally productive; but that, if he objected to the Americans being taxed by Parliament, he might save himself the trouble of the discussion, as he was determined on the measure. This is the fact, and, if you please, I will mention a very unquestionable authority for it.

"Thus, Sir, I have disposed of this falsehood. But falsehood has a perennial spring. It is said, that no conjecture could be made of the dislike of the colonies to the principle. This is as untrue as the other. After the resolution of the House, and before the passing of the Stamp Act, the colonies of Massachusetts Bay and New York did send remonstrances objecting to this mode of parliamentary taxation. What was the consequence? They were suppressed; they were put under the table, notwithstanding an order of council to the contrary, by the ministry which composed the very council that had made the order; and thus the House proceeded to its business of taxing without the least regular knowledge of the objections which were made

to it. But to give that House its due, it was not over desirous to receive information, or to hear remonstrance. On the 15th of February, 1765, whilst the Stamp Act was under deliberation, they refused, with scorn, even so much as to receive four petitions presented from so respectable colonies as Connecticut, Rhode Island, Virginia, and Carolina; besides one from the traders of Jamaica. As to the colonies, they had no alternative left to them, but to disobey; or to pay the taxes imposed by that Parliament, which was not suffered, or did not suffer itself, even to hear them remonstrate upon the subject.

"This was the state of the colonies before his Majesty thought fit to change his Ministers. It stands upon no authority of mine. It is proved by uncontrovertible records. The honourable gentleman has desired some of us to lay our hands upon our hearts, and answer to his queries upon the historical part of this consideration; and by his manner (as well as my eyes could discern it) he seemed to address himself to me.

"Sir, I will answer him as clearly as I am able, and with great openness; I have nothing to conceal. In the year sixty-five, being in a very private station, far enough from any line of business, and not having the honour of a seat in this House, it was my fortune, unknowing and unknown to the then Ministry, by the intervention of a common friend, to become connected with a very noble person, and at the head of the treasury department.* It was, indeed, in a situation of little rank and no consequence, suitable to the mediocrity of my talents and pretensions; but a situation near enough to enable me to see, as well as others, what was going on; and I did see, in that noble person, such sound principles, such an enlargement of mind, such clear and sagacious sense, and such unshaken fortitude, as have bound me, as well as others much better than me, by an inviolable attachment to him from that time forward. Sir, Lord Rockingham, very early in that summer, received a strong representation from many weighty English merchants and manufacturers, from governors of provinces and commanders of men of war, against almost the whole of the American commercial regulations: and particularly with regard to the total ruin which was threatened to the Spanish trade. I believe, Sir, the noble lord soon saw his way in this business. But he did not rashly determine against acts which, it might be supposed, were the result of much deliberation. However, Sir, he scarcely began to open the ground, when the whole veteran body of office took the alarm. A violent outcry of all (except those who knew and felt the mischief) was raised against any alteration. On one hand, his attempt was a direct violation of treaties and public law; on the other, the act of navigation and all the corps of trade laws were drawn up in array against it.

"The first step the noble lord took, was to have the opinion of his excellent, learned, and ever-lamented friend, the late Mr. Yorke, then Attorney-

* In July, 1765, Mr. Burke became private secretary to the Marquis of Rockingham through the recommendation of Mr. Fitzherbert, member for Derby.

general, on the point of law. When he knew that formally and officially, which in substance he had known before, he immediately despatched orders to redress the grievance. But I will say it for the then Minister, he is of that constitution of mind, that I know he would have issued, on the same critical occasion, the very same orders, if the acts of trade had been, as they were not, directly against him; and would have cheerfully submitted to the equity of Parliament for his indemnity.

"On the conclusion of this business of the Spanish trade, the news of the troubles, on account of the Stamp Act, arrived in England. It was not until the end of October that these accounts were received. No sooner had the sound of that mighty tempest reached us in England, than the whole of the then opposition, instead of feeling humbled by the unhappy issue of their measures, seemed to be infinitely elated, and cried out that the Ministry, from envy to the glory of their predecessors, were prepared to repeal the Stamp Act. Near nine years after, the honourable gentleman takes quite opposite ground, and now challenges me to put my hand to my heart, and say, whether the Ministry had resolved on the repeal till a considerable time after the meeting of Parliament. Though I do not very well know what the honourable gentleman wishes to infer from the admission, or from the denial of this fact, on which he so earnestly adjures me; I do put my hand on my heart, and assure him, that they did *not* come to a resolution directly to repeal. They weighed this matter as its difficulty and importance required. They considered maturely among themselves. They consulted with all who could give advice or information. It was not determined until a little before the meeting of Parliament; but it was determined, and the main lines of their own plan marked out, before that meeting. Two questions arose (I hope I am not going into a narrative troublesome to the House)"—

[A cry of, "Go on, go on."]

"The first of the two considerations was, whether the repeal should be total, or whether only partial; taking out everything burthensome and productive, and reserving only an empty acknowledgment, such as a stamp on cards or dice. The other question was, On what principle the act should be repealed? On this head, also, two principles were started: one, that the legislative rights of this country, with regard to America, were not entire, but had certain restrictions and limitations. The other principle was, that taxes of this kind were contrary to the fundamental principles of commerce on which the colonies were founded; and contrary to every idea of political equity; by which equity we are bound, as much as possible, to extend the spirit and benefit of the British constitution to every part of the British dominions. The option, both of the measure and of the principle of repeal, was made before the session; and I wonder how any one can read the King's speech at the opening of that session, without seeing in that speech both the repeal and the declaratory act very sufficiently crayoned out. Those who cannot see this can see nothing.

"Surely the honourable gentleman will not think that a great deal less

time than was then employed ought to have been spent in deliberation; when he considers that the news of the troubles did not arrive till towards the end of October. The Parliament sat to fill the vacancies on the 14th day of December, and on business the 14th of the following January.

"Sir, a partial repeal, or, as the *bon ton* of the court then was, a *modification*, would have satisfied a timid, unsystematic, procrastinating ministry, as such a measure has since done such a ministry. A modification is the constant resource of weak undeciding minds. To repeal, by a denial of our right to tax in the preamble (and this, too, did not want advisers), would have cut, in the heroic style, the Gordian knot with a sword. Either measure would have cost no more than a day's debate. But when the total repeal was adopted, and adopted on principles of policy, of equity, and of commerce, this plan made it necessary to enter into many and difficult measures. It became necessary to open a very large field of evidence commensurate to these extensive views. But then this labour did knight's service. It opened the eyes of several to the true state of the American affairs; it enlarged their ideas; it removed prejudices; and it conciliated the opinions and affections of men. The noble lord who then took the lead in the administration, my honourable friend* under me, and a right honourable gentleman† (if he will not reject his share, and it was a large one, of this business) exerted the most laudable industry in bringing before you the fullest, most impartial, and least-garbled body of evidence that ever was produced to this House. I think the inquiry lasted in the committee for six weeks; and at its conclusion this House, by an independent, noble, spirited, and unexpected majority, by a majority that will redeem all the acts ever done by majorities in Parliament, in the teeth of all the old mercenary Swiss of state, in despite of all the speculators and augurs of political events, in defiance of the whole embattled legion of veteran pensioners and practised instruments of a court, gave a total repeal to the Stamp Act, and (if it had been so permitted) a lasting peace to this whole empire.

"I state, Sir, these particulars, because this act of spirit and fortitude has lately been, in the circulation of the season, and in some hazarded declamations in this House, attributed to timidity. If, Sir, the conduct of Ministry, in proposing the repeal, had arisen from timidity with regard to themselves, it would have been greatly to be condemned. Interested timidity disgraces as much in the cabinet, as personal timidity does in the field; but timidity, with regard to the well-being of our country, is heroic virtue. The noble lord who then conducted affairs, and his worthy colleagues, whilst they trembled at the prospect of such distresses as you have since brought upon yourselves, were not afraid steadily to look in the face that glaring and dazzling influence at which the eyes of eagles have blenched. He looked in the face one of the ablest, and, let me say, not the most scrupulous

* Mr. Dowdeswell, Chancellor of the Exchequer.

† General Conway, Secretary of State.

opposition, that perhaps ever was in this house, and withstood it, unaided by even one of the usual supports of administration. He did this when he repealed the Stamp Act. He looked in the face a person he had long respected and regarded, and whose aid was then particularly wanting; I mean Lord Chatham.* He did this when he passed the Declaratory Act.

"It is now given out for the usual purposes, by the usual emissaries, that Lord Rockingham did not consent to the repeal of this act until he was bullied into it by Lord Chatham; and the reporters have gone so far as publicly to assert, in a hundred companies, that the honourable gentleman under the gallery,† who proposed the repeal in the American committee, had another set of resolutions in his pocket directly the reverse of those he moved. These artifices of a desperate cause are at this time spread abroad with incredible care, in every part of the town, from the highest to the lowest companies; as if the industry of the circulation were to make amends for the absurdity of the report.

"Sir, whether the noble lord is of a complexion to be bullied by Lord Chatham, or by any man, I must submit to those who know him. I confess, when I look back to that time, I consider him as placed in one of the most trying situations in which, perhaps, any man ever stood. In the House of Peers there were very few of the Ministry, out of the noble lord's own particular connexion, (except Lord Egmont, who acted, as far as I could discern, an honourable and manly part,) that did not look to some other future arrangement which warped his politics. There were in both houses new and menacing appearances, that might very naturally drive any other than a most resolute Minister from his measure or from his station.‡ The household troops openly revolted. The allies of Ministry (those, I mean, who supported some of their measures, but refused responsibility for any) endeavoured to undermine their credit, and to take ground that must be fatal to the success of the very cause which they would be thought to countenance. The question of the repeal was brought on by Ministry in the committee of this House, in the very instant when it was known that more than one court negotiation was carrying on with the heads of the opposition. Everything, upon every side, was full of traps and mines. Earth below shook; heaven above menaced; all the elements of ministerial safety were dissolved. It was in the midst of this chaos of plots and counterplots; it was in the midst

* See Lord Chatham's Speech on the subject of the Repeal of the Stamp Act, *ante* p. 24. † General Conway.

‡ The Rockingham Ministry was dreadfully weakened, both by internal disagreement and external unpopularity. The influence of Lord Chatham (then Mr. Pitt) over public opinion, prevented their former friends, the Whigs, from supporting them, while the Tories still formed a considerable opposition; and, in addition to this, they were personally disliked by the King, in consequence of their yielding policy towards America, and also on private grounds, from their omitting to apply to Parliament for a provision for the younger brothers of his Majesty. Under these circumstances, Lord Northington, the Lord Chancellor, resigned office, and was quickly followed by the Duke of Grafton, General Conway, and others.

of this complicated warfare against public opposition and private treachery, that the firmness of that noble person was put to the proof. He never stirred from his ground; no, not an inch. He remained fixed and determined, in principle, in measure, and in conduct. He practised no managements. He secured no retreat. He sought no apology.

"I will likewise do justice, I ought to do it, to the honourable gentleman who led us in this house.* Far from the duplicity wickedly charged on him, he acted his part with alacrity and resolution. We all felt inspired by the example he gave us, down even to myself, the weakest in that phalanx. I declare for one, I knew well enough (it could not be concealed from any body) the true state of things; but, in my life, I never came with so much spirits into this house. It was a time for a man to act in. We had powerful enemies; but we had faithful and determined friends, and a glorious cause. We had a great battle to fight; but we had the means of fighting; not as now, when our arms are tied behind us. We did fight that day, and conquer.

"I remember, Sir, with a melancholy pleasure, the situation of the honourable gentleman† who made the motion for the repeal; in that crisis, when the whole trading interest of this empire, crammed into your lobbies with a trembling and anxious expectation, waited, almost to a winter's return of light, their fate from your resolutions. When, at length, you had determined in their favour, and your doors, thrown open, showed them the figure of their deliverer in the well-earned triumph of his important victory, from the whole of that grave multitude there arose an involuntary burst of gratitude and transport. They jumped upon him, like children on a long absent father. They clung about him, as captives about their redeemer. All England, all America, joined to his applause. Nor did he seem insensible to the best of all earthly rewards, the love and admiration of his fellow-citizens. Hope elevated and joy brightened his crest. I stood near him; and his face, to use the expression of the Scripture of the first martyr, 'his face was as if it had been the face of an angel.' I do not know how others feel; but if I had stood in that situation, I never would have exchanged it for all that kings in their profusion could bestow. I did hope, that that day's danger and honour would have been a bond to hold us all together for ever. But, alas! that, with other pleasing visions, is long since vanished.

"Sir, this act of supreme magnanimity has been represented, as if it had been a measure of an administration that, having no scheme of their own, took a middle line, pilfered a bit from one side and a bit from the other. Sir, they took *no* middle lines. They differed fundamentally from the schemes of both parties; but they preserved the objects of both; they preserved the authority of Great Britain; they preserved the equity of Great Britain; they made the Declaratory Act; they repealed the Stamp Act. They did both *fully;* because the Declaratory Act was *without qualification;* and the repeal of the Stamp Act *total.* This they did in the situation I have described.

* General Conway. † General Conway.

" Now, Sir, what will the adversary say to both these acts? If the principle of the Declaratory Act was not good, the principle we are contending for this day is monstrous. If the principle of the repeal was not good, why are we not at war for a real, substantial, effective revenue? If both were bad, why has this Ministry incurred all the inconveniences of both and of all schemes? Why have they enacted, repealed, enforced, yielded, and now attempt to enforce again?

" Sir, I think I may as well now, as at any other time, speak to a certain matter of fact, not wholly unrelated to the question under your consideration. We who would persuade you to revert to the ancient policy of this kingdom, labour under the effect of this short current phrase, which the court leaders have given out to all their corps, in order to take away the credit of those who would prevent you from that frantic war you are going to wage upon your colonies. Their cant is this: 'All the disturbances in America have been created by the repeal of the Stamp Act.' I suppress for a moment my indignation at the falsehood, baseness, and absurdity of this most audacious assertion. Instead of remarking on the motives and character of those who have issued it for circulation, I will clearly lay before you the state of America, antecedently to that repeal, after the repeal, and since the renewal of the schemes of American taxation.

" It is said that the disturbances, if there were any, before the repeal, were slight; and without difficulty or inconvenience might have been suppressed. For an answer to this assertion I will send you to the great author and patron of the Stamp Act, who, certainly meaning well to the authority of this country, and fully apprised of the state of that, made, before a repeal was so much as agitated in this house, the motion which is in your journals; and which, to save the clerk the trouble of turning to it, I will now read to you. It was for an amendment to the address of the 17th of December, 1765:

" ' To express our just resentment and indignation at the outrageous tumults and insurrections which have been excited and carried on in North America; and at the resistance given by open and rebellious force to the execution of the laws in that part of his Majesty's dominions; and to assure his Majesty, that his faithful Commons, animated with the warmest duty and attachment to his royal person and government, will firmly and effectually support his Majesty in all such measures as shall be necessary for preserving and supporting the legal dependence of the colonies on the mother country,' &c. &c.

" Here was certainly a disturbance preceding the repeal—such a disturbance as Mr. Grenville thought necessary to qualify by the name of an *insurrection*, and the epithet of a *rebellious* force: terms much stronger than any, by which those who then supported his motion have ever since thought proper to distinguish the subsequent disturbances in America. They were disturbances which seemed to him and his friends to justify as strong a promise of support as hath been usual to give in the beginning of a war with the most powerful and declared enemies. When the accounts of the American governors came before the House, they appeared stronger even than the warmth of public

imagination had painted them; so much stronger, that the papers on your table bear me out in saying that all the late disturbances, which have been at one time the Minister's motives for the repeal of five out of six of the new court taxes, and are now his pretences for refusing to repeal that sixth, did not amount — why do I compare them? No, not to a tenth part of the tumults and violence which prevailed long before the repeal of that act.

" Ministry cannot refuse the authority of the commander-in-chief, General Gage, who, in his letter of the 4th of November, from New York, thus represents the state of things:

" ' It is difficult to say, from the highest to the lowest, who has not been accessary to this insurrection, either by writing or mutual agreements, to oppose the act, by what they are pleased to term all legal opposition to it. Nothing effectual has been proposed, either to prevent or quell the tumult. The rest of the provinces are in the same situation as to a positive refusal to take the stamps; and threatening those who shall take them, to plunder and murder them; and this affair stands in all the provinces, that unless the act, from its own nature, enforce itself, nothing but a very considerable military force can do it.'

" It is remarkable, Sir, that the persons who formerly trumpeted forth the most loudly the violent resolutions of assemblies; the universal insurrections; the seizing and burning the stamped papers; the forcing stamp officers to resign their commissions under the gallows; the rifling and pulling down of the houses of magistrates; and the expulsion from their country of all who dared to write or speak a single word in defence of the powers of Parliament; these very trumpeters are now the men that represent the whole as a mere trifle; and choose to date all the disturbances from the repeal of the Stamp Act, which put an end to them. Hear your officers abroad, and let them refute this shameless falsehood, who, in all their correspondence, state the disturbances as owing to their true causes, the discontent of the people, from the taxes. You have this evidence in your own archives—and it will give you complete satisfaction; if you are not so far lost to all parliamentary ideas of information, as rather to credit the lie of the day, than the records of your own House.

" Sir, this vermin of court reporters, when they are forced into day upon one point, are sure to burrow in another; but they shall have no refuge: I will make them bolt out of all their holes. Conscious that they must be baffled, when they attribute a precedent disturbance to a subsequent measure, they take other ground almost as absurd, but very common in modern practice, and very wicked; which is, to attribute the ill effect of ill-judged conduct to the arguments which had been used to dissuade us from it. They say, that the opposition made in Parliament to the Stamp Act at the time of its passing, encouraged the Americans to their resistance. This has even formally appeared in print in a regular volume, from an advocate of that faction, a Dr. Tucker. This Dr. Tucker is already a dean, and his earnest labours in this vineyard will, I suppose, raise him to a bishoprick. But this assertion, too, just like the rest, is false. In all the papers which have loaded your table; in all the vast crowd of

verbal witnesses that appeared at your bar—witnesses which were indiscriminately produced from both sides of the House,—not the least hint of such a cause of disturbance has ever appeared. As to the fact of a strenuous opposition to the Stamp Act, I sat as a stranger in your gallery when the act was under consideration. Far from anything inflammatory, I never heard a more languid debate in this house. No more than two or three gentlemen, as I remember, spoke against the act, and that with great reserve and remarkable temper. There was but one division in the whole progress of the bill; and the minority did not reach to more than 39 or 40. In the House of Lords I do not recollect that there was any debate or division at all. I am sure there was no protest. In fact, the affair passed with so very, very little noise, that in town they scarcely knew the nature of what you were doing. The opposition to the bill in England never could have done this mischief, because there scarcely ever was less of opposition to a bill of consequence.

"Sir, the agents and distributors of falsehoods have, with their usual industry, circulated another lie of the same nature with the former. It is this—that the disturbances arose from the account which had been received in America of the change in the Ministry. No longer awed, it seems, with the spirit of their former rulers, they thought themselves a match for what our calumniators choose to qualify by the name of so feeble a ministry as succeeded. Feeble in one sense these men certainly may be called; for with all their efforts, and they have made many, they have not been able to resist the distempered vigour and insane alacrity with which you are rushing to your ruin. But it does so happen that the falsity of this circulation is (like the rest) demonstrated by indisputable dates and records.

"So little was the change known in America, that the letters of your governors, giving an account of these disturbances long after they had arrived at their highest pitch, were all directed to the old Ministry, and particularly to the Earl of Halifax, the Secretary of State corresponding with the colonies, without once in the smallest degree intimating the slightest suspicion of any ministerial revolution whatsoever. The Ministry was not changed in England until the 10th day of July, 1765. On the 14th of the preceding June, Governor Fauquier, from Virginia, writes thus; and writes thus to the Earl of Halifax: 'Government is set at defiance, not having strength enough in her hands to enforce obedience to the laws of the community. The private distress, which every man feels, increases the general dissatisfaction at the duties laid by the Stamp Act, which breaks out, and shows itself upon every trifling occasion.' The general dissatisfaction had produced some time before, that is, on the 29th of May, several strong public resolves against the Stamp Act;* and those

* The colony of Virginia took the lead in the opposition to the stamp duties, and passed six resolutions in the House of Burgesses, on the 29th of May, 1765, in which they asserted their rights as British subjects, and declared the attempted taxation to be unconstitutional, and resolved, that all persons maintaining that the right to impose taxes on the people existed in any individual besides their General Assembly should be deemed enemies to the colony.

resolves are assigned by Governor Bernard as the cause of the *insurrections* in Massachusetts Bay, in his letter of the 15th of August, still addressed to the Earl of Halifax; and he continued to address such accounts to that Minister quite to the 7th of September of the same year. Similar accounts, and of as late a date, were sent from other governors, and all directed to Lord Halifax. Not one of these letters indicates the slightest idea of a change, either known, or even apprehended.

"Thus are blown away the insect race of courtly falsehoods! thus perish the miserable inventions of the wretched runners for a wretched cause, which they have fly-blown into every weak and rotten part of the country, in vain hopes that when their maggots had taken wing, their importunate buzzing might sound something like the public voice!

"Sir, I have troubled you sufficiently with the state of America before the repeal. Now I turn to the honourable gentleman who so stoutly challenges us, to tell whether, after the repeal, the provinces were quiet? This is coming home to the point. Here I meet him directly; and answer most readily, *They were quiet.* And I, in my turn, challenge him to prove when, and where, and by whom, and in what numbers, and with what violence, the other laws of trade, as gentlemen assert, were violated in consequence of your concession? or that even your other revenue-laws were attacked? But I quit the vantage ground on which I stand, and where I might leave the burthen of the proof upon him: I walk down upon the open plain, and undertake to show, that they were not only quiet, but showed many unequivocal marks of acknowledgment and gratitude. And to give him every advantage, I select the obnoxious colony of Massachusetts Bay, which at this time (but without hearing her) is so heavily a culprit before Parliament—I will select their proceedings, even under circumstances of no small irritation. For, a little imprudently, I must say, Governor Bernard mixed in the administration of the lenitive of the repeal no small acrimony arising from matters of a separate nature. Yet see, Sir, the effect of that lenitive, though mixed with these bitter ingredients; and how this rugged people can express themselves on a measure of concession.

"'If it is not in our power,' (say they in their address to Governor Bernard,) 'in so full a manner as will be expected, to show our respectful gratitude to the mother country, or to make a dutiful and affectionate return to the indulgence of the King and Parliament, it shall be no fault of ours; for this we intend, and hope we shall be able fully to effect.'

"Would to God that this temper had been cultivated, managed, and set in action! other effects than those which we have since felt would have resulted from it. On the requisition for compensation to those who had suffered from the violence of the populace, in the same address they say, 'The recommendation enjoined by Mr. Secretary Conway's letter, and in consequence thereof made to us, we will embrace the first convenient opportunity to consider and act upon.' They did consider; they did act upon it. They obeyed the requisition. I know the mode has been chicaned upon; but it

was substantially obeyed; and much better obeyed, than I fear the parliamentary requisition of this session will be, though enforced by all your rigour, and backed with all your power. In a word, the damages of popular fury were compensated by legislative gravity. Almost every other part of America in various ways demonstrated their gratitude. I am bold to say, that so sudden a calm recovered after so violent a storm is without parallel in history. To say that no other disturbance should happen from any other cause, is folly. But as far as appearances went, by the judicious sacrifice of one law you procured an acquiescence in all that remained. After this experience, nobody shall persuade me, when a whole people are concerned, that acts of lenity are not means of conciliation.

"I hope the honourable gentleman has received a fair and full answer to his question.

"I have done with the third period of your policy: that of your repeal; and the return of your ancient system, and your ancient tranquillity and concord. Sir, this period was not as long as it was happy. Another scene was opened, and other actors appeared on the stage. The state, in the condition I have described it, was delivered into the hands of Lord Chatham*—a great and celebrated name; a name that keeps the name of this country respectable in every other on the globe. It may be truly called,

'Clarum et venerabile nomen
Gentibus, et multum nostræ quod proderat urbi.'

"Sir, the venerable age of this great man, his merited rank, his superior eloquence, his splendid qualities, his eminent services, the vast space he fills in the eye of mankind; and, more than all the rest, his fall from power,† which, like death, canonises and sanctifies a great character, will not suffer me to censure any part of his conduct. I am afraid to flatter him; I am sure I am not disposed to blame him. Let those who have betrayed him by their adulation, insult him with their malevolence. But what I do not presume to censure, I may have leave to lament. For a wise man, he seemed to me at that time to be governed too much by general maxims. I speak with the freedom of history, and I hope without offence. One or two of these maxims, flowing from an opinion not the most indulgent to our unhappy species, and surely a little too general, led him into measures that were greatly mischievous to himself; and for that reason, among others, perhaps fatal to his country; measures, the effects of which, I am afraid, are for ever incurable. He made an administration, so chequered and speckled; he put together a piece of joinery so crossly indented and whimsically dovetailed; a cabinet so variously inlaid; such a piece of diversified Mosaic; such a tesselated pavement without cement; here a bit of black stone, and

* The Duke of Grafton was ostensibly the head of the new administration; Lord Chatham himself filling the office of Lord Privy Seal.

† Lord Chatham, disgusted with his colleagues, resigned his office in October, 1768.

there a bit of white; patriots and courtiers, King's friends and republicans; Whigs and Tories; treacherous friends and open enemies: that it was indeed a very curious show; but utterly unsafe to touch, and unsure to stand on. The colleagues whom he had assorted at the same boards, stared at each other, and were obliged to ask, 'Sir, your name?—Sir, you have the advantage of me—Mr. Such-a-one—I beg a thousand pardons—' I venture to say, it did so happen, that persons had a single office divided between them,* who had never spoke to each other in their lives; until they found themselves, they knew not how, pigging together, heads and points, in the same truckle-bed.

"Sir, in consequence of this arrangement, having put so much the larger part of his enemies and opposers into power, the confusion was such, that his own principles could not possibly have any effect or influence in the conduct of affairs. If ever he fell into a fit of the gout, or if any other cause withdrew him from public cares, principles directly the contrary were sure to predominate. When he had executed his plan, he had not an inch of ground to stand upon. When he had accomplished his scheme of administration, he was no longer a Minister.

"When his face was hid but for a moment, his whole system was on a wide sea, without chart or compass. The gentlemen, his particular friends, who, with the names of various departments of Ministry, were admitted to seem as if they acted a part under him, with a modesty that becomes all men, and with a confidence in him which was justified even in its extravagance by his superior abilities, had never, in any instance, presumed upon any opinion of their own. Deprived of his guiding influence, they were whirled about, the sport of every gust, and easily driven into any port; and as those who joined with them in manning the vessel were the most directly opposite to his opinions, measures, and character, and far the most artful and most powerful of the set, they easily prevailed, so as to seize upon the vacant, unoccupied, and derelict minds of his friends; and instantly they turned the vessel wholly out of the course of his policy. As if it were to insult as well as to betray him, even long before the close of the first session of his administration, when everything was publicly transacted, and with great parade, in his name, they made an Act, declaring it highly just and expedient to raise a revenue in America. For even then, Sir, even before this splendid orb was entirely set, and while the western horizon was in a blaze with his descending glory, on the opposite quarter of the heavens arose another luminary, and, for his hour, became lord of the ascendant.

"This light, too, is passed and set for ever.† You understand, to be sure,

* Supposed to allude to Lord North and Mr. George Cooke, who were made joint-paymaster.

† The Honourable Charles Townshend, the Chancellor of the Exchequer under the Duke of Grafton's administration, died prematurely of putrid fever, in September, 1767, and was succeeded by Lord North.

that I speak of Charles Townshend, officially the re-producer of this fatal scheme; whom I cannot even now remember without some degree of sensibility. In truth, Sir, he was the delight and ornament of this House, and the charm of every private society which he honoured with his presence. Perhaps there never arose in this country, nor in any country, a man of a more pointed and finished wit; and—where his passions were not concerned—of a more refined, exquisite, and penetrating judgment. If he had not so great a stock, as some have had who flourished formerly, of knowledge long treasured up, he knew better by far, than any man I ever was acquainted with, how to bring together within a short time all that was necessary to establish, to illustrate, and to decorate that side of the question he supported. He stated his matter skilfully and powerfully. He particularly excelled in a most luminous explanation and display of his subject. His style of argument was neither trite and vulgar nor subtle and abstruse. He hit the House just between wind and water. And not being troubled with too anxious a zeal for any matter in question, he was never more tedious, or more earnest, than the pre-conceived opinions and present temper of his hearers required; to whom he was always in perfect unison. He conformed exactly to the temper of the House; and he seemed to guide, because he was always sure to follow it.

"I beg pardon, Sir, if, when I speak of this and of other great men, I appear to digress in saying something of their characters. In this eventful history of the revolutions of America, the characters of such men are of much importance. Great men are the guide-posts and land-marks in the state. The credit of such men at court, or in the nation, is the sole cause of all the public measures. It would be an invidious thing—most foreign, I trust, to what you think my disposition—to remark the errors into which the authority of great names has brought the nation, without doing justice at the same time to the great qualities whence that authority arose. The subject is instructive to those who wish to form themselves on whatever of excellence has gone before them. There are many young members in the House (such, of late, has been the rapid succession of public men) who never saw that prodigy, Charles Townshend; nor, of course, know what a ferment he was able to excite in everything, by the violent ebullition of his mixed virtues and failings. For failings he had undoubtedly—many of us remember them; we are this day considering the effect of them. But he had no failings which were not owing to a noble cause; to an ardent, generous, perhaps an immoderate, passion for fame; a passion which is the instinct of all great souls. He worshipped that goddess wheresoever she appeared; but he paid his particular devotions to her in her favourite habitation, in her chosen temple, the House of Commons. Besides the characters of the individuals that compose our body, it is impossible, Mr. Speaker, not to observe, that this House has a collective character of its own. That character, too, however imperfect, is not unamiable. Like all great public collections of men, you possess a marked love of virtue, and an abhorrence of vice. But among

vices, there is none which the House abhors in the same degree with obstinacy. Obstinacy, Sir, is certainly a great vice; and in the changeful state of political affairs it is frequently the cause of great mischief. It happens, however, very unfortunately, that almost the whole line of the great and masculine virtues, constancy, gravity, magnanimity, fortitude, fidelity, and firmness, are closely allied to this disagreeable quality, of which you have so just an abhorrence; and in their excess, all these virtues very easily fall into it. He, who paid such a punctilious attention to all your feelings, certainly took care not to shock them by that vice which is the most disgustful to you.

"That fear of displeasing those who ought most to be pleased betrayed him sometimes into the other extreme. He had voted, and in the year 1765, had been an advocate for the Stamp Act. Things, and the disposition of men's minds, were changed. In short, the Stamp Act began to be no favourite in this House. He therefore attended at the private meeting, in which the resolutions moved by a right honourable gentleman* were settled; resolutions leading to the repeal. The next day he voted for that repeal; and he would have spoken for it too, if an illness—not, as was then given out, a political, but to my knowledge a very real illness—had not prevented it.

"The very next session, as the fashion of this world passeth away, the repeal began to be in as bad an odour in this House, as the Stamp Act had been in the session before. To conform to the temper which began to prevail, and to prevail mostly amongst those most in power, he declared, very early in the winter, that a revenue must be had out of America. Instantly he was tied down to his engagements by some who had no objection to such experiments, when made at the cost of persons for whom they had no particular regard. The whole body of courtiers drove him onward. They always talked as if the king stood in a sort of humiliated state, until something of the kind should be done.

"Here this extraordinary man, then Chancellor of the Exchequer, found himself in great straits. To please universally was the object of his life; but to tax and to please, no more than to love and to be wise, is not given to men. However, he attempted it. To render the tax palatable to the partisans of American revenue, he made a preamble stating the necessity of such a revenue. To close with the American distinction, this revenue was external or port-duty; but again, to soften it to the other party, it was a duty of supply. To gratify the colonist, it was laid on British manufactures; to satisfy the merchants of Britain, the duty was trivial, and, except that on tea, which touched only the devoted East India Company, on none of the grand objects of commerce. To counterwork the American contraband, the duty on tea was reduced from a shilling to three-pence. But to secure the favour of those who would tax America, the scene of collection was changed, and, with the rest, it was levied in the colonies. What need I say more?

* General Conway.

This fine-spun scheme had the usual fate of all exquisite policy. But the original plan of the duties, and the mode of executing that plan, both arose singly and solely from a love of our applause. He was truly the child of the House. He never thought, did, or said anything but with a view to you. He every day adapted himself to your disposition; and adjusted himself before it as at a looking-glass.

"He had observed (indeed it could not escape him) that several persons, infinitely his inferiors in all respects, had formerly rendered themselves considerable in this House by one method alone. They were a race of men (I hope in God the species is extinct) who, when they rose in their place, no man living could divine, from any known adherence to parties, to opinions, or to principles, from any order or system in their politics, or from any sequel or connexion in their ideas, what part they were going to take in any debate. It is astonishing how much this uncertainty, especially at critical times, called the attention of all parties on such men. All eyes were fixed on them, all ears open to hear them; each party gaped, and looked alternately for their vote, almost to the end of their speeches. While the House hung in this uncertainty, now the *hear-hims* rose from this side—now they rebellowed from the other; and that party to whom they fell at length from their tremulous and dancing balance, always received them in a tempest of applause. The fortune of such men was a temptation too great to be resisted by one to whom a single whiff of incense withheld gave much greater pain than he received delight in the clouds of it which daily rose about him from the prodigal superstition of innumerable admirers. He was a candidate for contradictory honours; and his great aim was to make those agree in admiration of him who never agreed in anything else.

"Hence arose this unfortunate Act, the subject of this day's debate; from a disposition which, after making an American revenue to please one, repealed it to please others, and again revived it in hopes of pleasing a third, and of catching something in the ideas of all.

"This revenue act of 1767 formed the fourth period of American policy. How we have fared since then—what woeful variety of schemes have been adopted; what enforcing, and what repealing; what bullying, and what submitting; what doing, and undoing; what straining, and what relaxing; what assemblies dissolved for not obeying, and called again without obedience; what troops sent out to quell resistance, and, on meeting that resistance, recalled; what shiftings, and changes, and jumblings of all kinds of men at home, which left no possibility of order, consistency, vigour, or even so much as a decent unity of colour in any one public measure.—It is a tedious, irksome task. My duty may call me to open it out some other time; on a former occasion* I tried your temper on a part of it; for the present I shall forbear.

* On moving certain resolutions relating to the disorders in the North American Colonies, in May, 1770.

"After all these changes and agitations, your immediate situation upon the question on your paper is at length brought to this. You have an act of parliament, stating that 'it is *expedient* to raise a revenue in America.' By a partial repeal you annihilated the greatest part of that revenue, which this preamble declares to be so expedient. You have substituted no other in the place of it. A Secretary of State has disclaimed, in the King's name, all thoughts of such a substitution in future. The principle of this disclaimer goes to what has been left, as well as what has been repealed. The tax which lingers after its companions (under a preamble declaring an American revenue expedient, and for the sole purpose of supporting the theory of that preamble,) militates with the assurance authentically conveyed to the colonies; and is an exhaustless source of jealousy and animosity. On this state, which I take to be a fair one, not being able to discern any grounds of honour, advantage, peace, or power, for adhering, either to the act or to the preamble, I shall vote for the question which leads to the repeal of both.

"If you do not fall in with this motion, then secure something to fight for, consistent in theory and valuable in practice. If you must employ your strength, employ it to uphold you in some honourable right, or some profitable wrong. If you are apprehensive that the concession recommended to you, though proper, should be a means of drawing on you further but unreasonable claims,—why, then, employ your force in supporting that reasonable concession against those unreasonable demands. You will employ it with more grace, with better effect, and with great probable concurrence of all the quiet and rational people in the provinces; who are now united with, and hurried away by the violent; having indeed different dispositions, but a common interest. If you apprehend that on a concession you shall be pushed by metaphysical process to the extreme lines, and argued out of your whole authority, my advice is this: When you have recovered your old, your strong, your tenable position, then face about—stop short—do nothing more—reason not at all—oppose the ancient policy and practice of the empire, as a rampart against the speculations of innovators on both sides of the question; and you will stand on great, manly, and sure ground. On this solid basis fix your machines, and they will draw worlds towards you.

"Your Ministers, in their own and in his Majesty's name, have already adopted the American distinction of internal and external duties. It is a distinction, whatever merit it may have, that was originally moved by the Americans themselves; and I think they will acquiesce in it, if they are not pushed with too much logic and too little sense, in all the consequences. That is, if external taxation be understood, as they and you understand it when you please, to be not a distinction of geography, but of policy; that it is a power for regulating trade, and not for supporting establishments. The distinction, which is as nothing with regard to right, is of most weighty consideration in practice. Recover your old ground and your old tranquillity—try it—I am persuaded the Americans will compromise with you. When

confidence is once restored, the odious and suspicious *summum jus* will perish of course. The spirit of practicability, of moderation, and mutual convenience, will never call in geometrical exactness as the arbitrator of an amicable settlement. Consult and follow your experience. Let not the long story with which I have exercised your patience, prove fruitless to your interests.

"For my part, I should choose (if I could have my wish) that the proposition of the honourable gentleman* for the repeal, could go to America without the attendance of the penal bills. Alone, I could almost answer for its success. I cannot be certain of its reception in the bad company it may keep. In such heterogeneous assortments, the most innocent person will lose the effect of his innocency. Though you should send out this angel of peace, yet you are sending out a destroying angel too; and what would be the effect of the conflict of these two adverse spirits, or which would predominate in the end, is what I dare not say: whether the lenient measures would cause American passion to subside. or the severe would increase its fury. All this is in the hand of Providence; yet now, even now, I should confide in the prevailing virtue and efficacious operation of lenity, though working in darkness and in chaos, in the midst of all this unnatural and turbid combination. I should hope it might produce order and beauty in the end.

"Let us, Sir, embrace some system or other before we end this session. Do you mean to tax America, and to draw a productive revenue from thence? If you do, speak out: name, fix, ascertain this revenue; settle its quantity; define its objects; provide for its collection; and then fight when you have something to fight for. If you murder, rob; if you kill, take possession: and do not appear in the character of madmen as well as assassins, violent, vindictive, bloody, and tyrannical, without an object. But may better counsels guide you!

"Again, and again, revert to your old principles—seek peace and ensue it—leave America, if she has taxable matter in her, to tax herself. I am not here going into the distinctions of right, nor attempting to mark their boundaries. I do not enter into these metaphysical distinctions; I hate the very sound of them. Leave the Americans as they anciently stood, and these distinctions, born of our unhappy contest, will die along with it. They and we, and their and our ancestors, have been happy under that system. Let the memory of all actions, in contradiction to that good old mode, on both sides be extinguished for ever. Be content to bind America by laws of trade; you have always done it. Let this be your reason for binding their trade. Do not burthen them by taxes; you were not used to do so from the beginning. Let this be your reason for not taxing. These are the arguments of states and kingdoms. Leave the rest to the schools; for there only they may be discussed with safety. But if, intemperately, unwisely, fatally, you sophisticate and poison the very source of government, by urging subtle deductions,

* Mr. Fuller.

and consequences odious to those you govern, from the unlimited and illimitable nature of supreme sovereignty, you will teach them by these means to call that sovereignty itself in question. When you drive him hard, the boar will surely turn upon the hunters. If that sovereignty and their freedom cannot be reconciled, which will they take? They will cast your sovereignty in your face. Nobody will be argued into slavery. Sir, let the gentlemen on the other side call forth all their ability; let the best of them get up, and tell me, what one character of liberty the Americans have, and what one brand of slavery they are free from, if they are bound, in their property and industry, by all the restraints you can imagine on commerce, and at the same time are made pack-horses of every tax you choose to impose, without the least share in granting them. When they bear the burthens of unlimited monopoly, will you bring them to bear the burthens of unlimited revenue too? The Englishman in America will feel that this is slavery: that it is legal slavery, will be no compensation, either to his feelings or his understanding.

"A noble lord,* who spoke some time ago, is full of the fire of ingenuous youth; and when he has modelled the ideas of a lively imagination by further experience, he will be an ornament to his country in either House. He has said that the Americans are our children, and how can they revolt against their parent? He says, that if they are not free in their present state, England is not free; because Manchester and other considerable places are not represented. So then, because some towns in England are not represented, America is to have no representative at all. They are 'our children;' but when children ask for bread, we are not to give a stone. Is it because the natural resistance of things, and the various mutations of time, hinders our government, or any scheme of government, from being any more than a sort of approximation to the right—is it therefore that the colonies are to recede from it infinitely? When this child of ours wishes to assimilate to its parent, and to reflect with a true filial resemblance the beauteous countenance of British liberty; are we to turn to them the shameful parts of our constitution? are we to give them our weakness for their strength; our opprobrium for their glory; and the slough of slavery, which we are not able to work off, to serve them for their freedom?

"If this be the case, ask yourselves this question, Will they be content in such a state of slavery? If not, look to the consequences. Reflect how you are to govern a people, who think they ought to be free, and think they are not. Your scheme yields no revenue; it yields nothing but discontent, disorder, disobedience; and such is the state of America, that after wading up to your eyes in blood, you could only end just where you began; that is, to tax where no revenue is to be found, to—my voice fails me; my inclination, indeed, carries me no further—all is confusion beyond it.

"Well, Sir, I have recovered a little, and before I sit down I must say

* Lord Carmarthen.

something to another point with which gentlemen urge us. What is to become of the Declaratory Act, asserting the entireness of British legislative authority, if we abandon the practice of taxation?

"For my part, I look upon the rights stated in that act exactly in the manner in which I viewed them on its very first proposition, and which I have often taken the liberty, with great humility, to lay before you. I look, I say, on the imperial rights of Great Britain, and the privileges which the colonists ought to enjoy under these rights, to be just the most reconcileable things in the world. The Parliament of Great Britain sits at the head of her extensive empire in two capacities: one as the local legislature of this island, providing for all things at home, immediately, and by no other instrument than the executive power. The other, and I think her nobler capacity, is what I call her imperial character; in which, as from the throne of heaven, she superintends all the several inferior legislatures, and guides and controls them all without annihilating any. As all these provincial legislatures are only co-ordinate to each other, they ought all to be subordinate to her; else they can neither preserve mutual peace, nor hope for mutual justice, nor effectually afford mutual assistance. It is necessary to coerce the negligent, to restrain the violent, and to aid the weak and deficient, by the over-ruling plenitude of her power. She is never to intrude into the place of the others, whilst they are equal to the common ends of their institution. But in order to enable Parliament to answer all these ends of provident and beneficent superintendence, her powers must be boundless. The gentlemen who think the powers of Parliament limited, may please themselves to talk of requisitions. But suppose the requisitions are not obeyed? What! Shall there be no reserved power in the empire, to supply a deficiency which may weaken, divide, and dissipate the whole? We are engaged in war—the Secretary of State calls upon the colonies to contribute—some would do it, I think most would cheerfully furnish whatever is demanded—one or two, suppose, hang back, and, easing themselves, let the stress of the draft lie on the others—surely it is proper that some authority might legally say, 'Tax yourselves for the common supply, or Parliament will do it for you.' This backwardness was, as I am told, actually the case of Pennsylvania for some short time towards the beginning of the last war, owing to some internal dissensions in the colony. But, whether the fact were so or otherwise, the case is equally to be provided for by a competent sovereign power. But then this ought to be no ordinary power; nor ever used in the first instance. This is what I meant, when I have said at various times, that I consider the power of taxing in Parliament as an instrument of empire, and not as a means of supply.

"Such, Sir, is my idea of the constitution of the British empire, as distinguished from the constitution of Britain; and on these grounds I think subordination and liberty may be sufficiently reconciled through the whole: whether to serve a fining speculatist, or a factious demagogue, I know not; but enough, surely, for the ease and happiness of man.

"Sir, whilst we held this happy course, we drew more from the colonies than all the impotent violence of despotism ever could extort from them. We did this abundantly in the last war. It has never been once denied—and what reason have we to imagine that the colonies would not have proceeded in supplying government as liberally, if you had not stepped in and hindered them from contributing, by interrupting the channel in which their liberality flowed with so strong a course; by attempting to take, instead of being satisfied to receive? Sir William Temple says, that Holland has loaded itself with ten times the impositions, which it revolted from Spain rather than submit to. He says true. Tyranny is a poor provider. It knows neither how to accumulate, nor how to extract.

"I charge, therefore, to this new and unfortunate system the loss not only of peace, of union, and of commerce, but even of revenue, which its friends are contending for. It is morally certain, that we have lost at least a million of free grants since the peace. I think we have lost a great deal more; and that those who look for a revenue from the provinces never could have pursued, even in that light, a course more directly repugnant to their purposes.

"Now, Sir, I trust I have shown, first on that narrow ground which the honourable gentleman measured, that you are like to lose nothing by complying with the motion, except what you have lost already. I have shown afterwards, that in time of peace you flourished in commerce, and when war required it, had sufficient aid from the colonies, while you pursued your ancient policy; that you threw everything into confusion when you made the Stamp Act; and that you restored everything to peace and order when you repealed it. I have shown that the revival of the system of taxation has produced the very worst effects; and that the partial repeal has produced, not partial good, but universal evil. Let these considerations, founded on facts, not one of which can be denied, bring us back to our reason by the road of our experience.

"I cannot, as I have said, answer for mixed measures; but surely this mixture of lenity would give the whole a better chance of success. When you once regain confidence, the way will be clear before you. Then you may enforce the act of navigation when it ought to be enforced. You will yourselves open it where it ought still further to be opened. Proceed in what you do, whatever you do, from policy, and not from rancour. Let us act like men, let us act like statesmen. Let us hold some sort of consistent conduct. It is agreed that a revenue is not to be had in America. If we lose the profit, let us get rid of the odium.

"On this business of America, I confess I am serious, even to sadness. I have had but one opinion concerning it since I sat, and before I sat in parliament. The noble lord* will, as usual, probably, attribute the part taken by me and my friends in this business to a desire of getting his places. Let him enjoy this happy and original idea. If I deprived him of it, I should

* Lord North.

take away most of his wit, and all his argument. But I had rather bear the brunt of all his wit; and, indeed, blows much heavier, than stand answerable to God for embracing a system that tends to the destruction of some of the very best and fairest of his works. But I know the map of England as well as the noble lord, or as any other person; and I know that the way I take is not the road to preferment. My excellent and honourable friend under me on the floor* has trod that road with great toil for upwards of twenty years together. He is not yet arrived at the noble lord's destination. However, the tracks of my worthy friend are those I have ever wished to follow; because I know they lead to honour. Long may we tread the same road together: whoever may accompany us, or whoever may laugh at us on our journey! I honestly and solemnly declare, I have in all seasons adhered to the system of 1766, for no other reason than that I think it laid deep in your truest interests; and that, by limiting the exercise, it fixes on the firmest foundations a real, consistent, well-grounded authority in Parliament. Until you come back to that system, there will be no peace for England."

On a division, the motion was negatived by 182 to 49.

SPEECH on moving Thirteen Resolutions in favour of Conciliation with the North American Colonies, 22nd March, 1775.

In the preceding February of this year, in consequence of the rebellious conduct of the American colonies, and their determined refusal to hold commercial intercourse with Great Britain, Lord North had introduced a bill to restrain the trade and commerce of the provinces of Massachusetts Bay and New Hampshire, and the colonies of Connecticut, Rhode Island, and Providence Plantation, to Great Britain and Ireland and the British West India Islands, and to prohibit such provinces and colonies from carrying on any fishery on the Banks of Newfoundland and other places under certain conditions and limitations; an exception being made in favour of all persons who should be certified by the Governors of certain provinces as being well-disposed, and who should subscribe to a test, acknowledging the supremacy of Parliament.

This bill was passed by large majorities, and was followed quickly by another, restraining, in like manner, the trade of the provinces of New Jersey, Pennsylvania, Maryland, Virginia, and South Carolina. On the 20th of the same month of February, and while these bills were in progress, Parliament and Lord North's own friends were astonished by his bringing forward, in committee, a conciliatory resolution, to the effect that when the colonies should themselves make provision for contributing their fair share toward the general defence, such contribution to be disposable by Parliament,

* Supposed to allude to General Conway.

and should engage to provide for the support of their own government, it would be proper, with the King's approval, to forbear levying any further taxes, except such duties as might be expedient for the regulation of commerce. By the Minister's great influence, this resolution was carried; but the opposition considered it a favourable opportunity to propose, on their part, conciliatory measures, the terms of which might be so framed, as, when compared with those of Lord North, would, in effect, carry with them a censure on the Government. Mr. Burke was deputed as the fittest man to undertake the task, and he accordingly drew up Thirteen Resolutions, which he brought forward in the following speech:—

"I hope, Sir, that notwithstanding the austerity of the chair, your good-nature will incline you to some degree of indulgence towards human frailty. You will not think it unnatural, that those who have an object depending, which strongly engages their hopes and fears, should be somewhat inclined to superstition. As I came into the House full of anxiety about the event of my motion, I found, to my infinite surprise, that the grand penal bill, by which we had passed sentence on the trade and sustenance of America, is to be returned to us from the other House.* I do confess, I could not help looking on this event as a fortunate omen. I look upon it as a sort of providential favour; by which we are put once more in possession of our deliberative capacity, upon a business so very questionable in its nature, so very uncertain in its issue. By the return of this bill, which seemed to have taken its flight for ever, we are at this very instant nearly as free to choose a plan for our American government, as we were on the first day of the session. If, Sir, we incline to the side of conciliation, we are not at all embarrassed (unless we please to make ourselves so) by any incongruous mixture of coercion and restraint. We are therefore called upon, as it were, by a superior warning voice, again to attend to America; to attend to the whole of it together; and to review the subject with an unusual degree of care and calmness.

"Surely it is an awful subject; or there is none so on this side of the grave. When I first had the honour of a seat in this House, the affairs of that continent pressed themselves upon us, as the most important and most delicate object of parliamentary attention. My little share in this great deliberation oppressed me. I found myself a partaker in a very high trust; and having no sort of reason to rely on the strength of my natural abilities for the proper execution of that trust, I was obliged to take more than common pains to instruct myself in everything which relates to our colonies. I was not less under the necessity of forming some fixed ideas, concerning the general policy of the British empire. Something of this sort seemed to be indispensable; in order, amidst so vast a fluctuation of passions and opinions, to concentre my thoughts; to ballast my conduct; to preserve me from being blown about by every wind of fashionable doctrine. I really did

* The restraining bill of Lord North.

not think it safe, or manly, to have fresh principles to seek upon every fresh mail which should arrive from America.

"At that period, I had the fortune to find myself in perfect concurrence with a large majority in this House. Bowing under that high authority, and penetrated with the sharpness and strength of that early impression, I have continued ever since, without the least deviation in my original sentiments. Whether this be owing to an obstinate perseverance in error, or to a religious adherence to what appears to me truth and reason, it is in your equity to judge.

"Sir, Parliament having an enlarged view of objects, made, during this interval, more frequent changes in their sentiments and their conduct than could be justified in a particular person upon the contracted scale of private information. But though I do not hazard anything approaching to a censure on the motives of former Parliaments to all those alterations, one fact is undoubted; that under them the state of America has been kept in continual agitation. Everything administered as a remedy to the public complaint, if it did not produce, was at least followed by, a heightening of the distemper; until, by a variety of experiments, that important country has been brought into her present situation;—a situation which I will not miscall, which I dare not name; which I scarcely know how to comprehend in the terms of any description.

"In this posture, Sir, things stood at the beginning of the session. About that time, a worthy member (Mr. Rose Fuller) of great parliamentary experience, who, in the year 1766, filled the chair of the American committee with much ability, took me aside; and, lamenting the present aspect of our politics, told me, things were come to such a pass, that our former methods of proceeding in the House would be no longer tolerated. That the public tribunal (never too indulgent to a long and unsuccessful opposition) would now scrutinise our conduct with unusual severity. That the very vicissitudes and shiftings of ministerial measures, instead of convicting their authors of inconstancy and want of system, would be taken as an occasion of charging us with a predetermined discontent, which nothing could satisfy; whilst we accused every measure of vigour as cruel, and every proposal of lenity as weak and irresolute. The public, he said, would not have patience to see us play the game out with our adversaries: we must produce our hand. It would be expected, that those who for many years had been active in such affairs should show that they had formed some clear and decided idea of the principles of colony government; and were capable of drawing out something like a platform of the ground, which might be laid for future and permanent tranquillity.

"I felt the truth of what my honourable friend represented; but I felt my situation too. His application might have been made with far greater propriety to many other gentlemen. No man was, indeed, ever better disposed, or worse qualified, for such an undertaking than myself. Though I gave so far in to his opinion, that I immediately threw my thoughts into a sort of

parliamentary form, I was by no means equally ready to produce them. It generally argues some degree of natural impotence of mind, or some want of knowledge of the world, to hazard plans of government, except from a seat of authority. Propositions are made, not only ineffectually, but somewhat disreputably, when the minds of men are not properly disposed for their reception; and, for my part, I am not ambitious of ridicule; not absolutely a candidate for disgrace.

"Besides, Sir, to speak the plain truth, I have in general no very exalted opinion of the virtue of paper government; nor of any politics in which the plan is to be wholly separated from the execution. But when I saw that anger and violence prevailed every day more and more, and that things were hastening towards an incurable alienation of our colonies, I confess my caution gave way. I felt this, as one of those few moments in which decorum yields to a higher duty. Public calamity is a mighty leveller; and there are occasions when any, even the slightest, chance of doing good, must be laid hold on, even by the most inconsiderable person.

"To restore order and repose to an empire so great and so distracted as ours, is, merely in the attempt, an undertaking that would ennoble the flights of the highest genius, and obtain pardon for the efforts of the meanest understanding. Struggling a good while with these thoughts, by degrees I felt myself more firm. I derived, at length, some confidence from what, in other circumstances, usually produces timidity. I grew less anxious, even from the idea of my own insignificance. For, judging of what you are, by what you ought to be, I persuaded myself that you would not reject a reasonable proposition, because it had nothing but its reason to recommend it. On the other hand, being totally destitute of all shadow of influence, natural or adventitious, I was very sure, that, if my proposition were futile or dangerous; if it were weakly conceived, or improperly timed, there was nothing exterior to it, of power to awe, dazzle, or delude you. You will see it just as it is; and you will treat it just as it deserves.

"The proposition is peace:—not peace through the medium of war; not peace to be hunted through the labyrinth of intricate and endless negotiations; not peace to arise out of universal discord, fomented from principle, in all parts of the empire; not peace to depend on the juridical determination of perplexing questions, or the precise marking the shadowy boundaries of a complex government. It is simple peace, sought in its natural course, and in its ordinary haunts—it is peace sought in the spirit of peace, and laid in principles purely pacific. I propose, by removing the ground of the difference, and by restoring the former unsuspecting confidence of the colonies in the mother country, to give permanent satisfaction to your people; and (far from a scheme of ruling by discord) to reconcile them to each other in the same act, and by the bond of the very same interest, which reconciles them to British government.

"My idea is nothing more. Refined policy ever has been the parent of confusion, and ever will be so, as long as the world endures. Plain good

intention, which is as easily discovered at the first view, as fraud is surely detected at last, is, let me say, of no mean force in the government of mankind. Genuine simplicity of heart is a healing and cementing principle. My plan, therefore, being formed upon the most simple grounds imaginable, may disappoint some people when they hear it. It has nothing to recommend it to the pruriency of curious ears. There is nothing at all new and captivating in it. It has nothing of the splendour of the project which has been lately laid upon your table by the noble lord in the blue ribbon.* It does not propose to fill your lobby with squabbling colony agents, who will require the interposition of your mace, at every instant, to keep the peace amongst them. It does not institute a magnificent auction of finances where captivated provinces come to general ransom by bidding against each other, until you knock down the hammer, and determine a proportion of payments, beyond all the powers of algebra to equalise and settle.

"The plan, which I shall presume to suggest, derives, however, one great advantage from the proposition and registry of that noble lord's project. The idea of conciliation is admissible. First, the House, in accepting the resolution moved by the noble lord, has admitted, notwithstanding the menacing front of our address,† notwithstanding our heavy bill of pains and penalties—that we do not think ourselves precluded from all ideas of free grace and bounty.

"The House has gone further; it has declared conciliation admissible, *previous* to any submission on the part of America. It has even shot a good deal beyond that mark, and has admitted, that the complaints of our former mode of exerting the right of taxation were not wholly unfounded. That right thus exerted is allowed to have had something reprehensible in it; something unwise, or something grievous; since, in the midst of our heat

* Lord North's conciliatory resolution, which was in the following words:—"That it is the opinion of this Committee that when the Governor, Council, and Assembly, or general Court of any of his Majesty's Provinces or Colonies in America, shall propose to make provision, according to the condition, circumstances, and situation of such Province or Colony, for contributing their proportion to the common defence (such proportion to be raised under the authority of the general Court, or general Assembly of such Province or Colony, and disposable by Parliament), and shall engage to make provision also for the support of the civil government, and the administration of justice in such Province or Colony, it will be proper, if such proposal shall be approved by his Majesty and the two Houses of Parliament, and for so long as such provision shall be made accordingly, to forbear, in respect of such Province or Colony, to levy any duty, tax, or assessment, or to impose any further duty, tax, or assessment, except only such duties as may be expedient to continue to levy, or to impose for the regulation of commerce; the net produce of the duties last mentioned to be carried to the account of such Province or Colony, respectively."

† Previously to his restraining bill, Lord North had procured an address to be voted and presented to the King, in which, after setting forth that a rebellion then actually existed in the Province of Massachusetts Bay, the two Houses of Parliament besought his Majesty to take the most effectual measures to enforce obedience, and assured him of their zealous co-operation.

and resentment, we, of ourselves, have proposed a capital alteration; and, in order to get rid of what seemed so very exceptionable, have instituted a mode that is altogether new; one that is, indeed, wholly alien from all the ancient methods and forms of Parliament.

"The *principle* of this proceeding is large enough for my purpose. The means proposed by the noble lord for carrying his ideas into execution, I think, indeed, are very indifferently suited to the end; and this I shall endeavour to show you before I sit down. But, for the present, I take my ground on the admitted principle. I mean to give peace. Peace implies reconciliation; and where there has been a material dispute, reconciliation does in a manner always imply concession on the one part or on the other. In this state of things I make no difficulty in affirming, that the proposal ought to originate from us. Great and acknowledged force is not impaired, either in effect or in opinion, by an unwillingness to exert itself. The superior power may offer peace with honour and with safety. Such an offer from such a power will be attributed to magnanimity. But the concessions of the weak are the concessions of fear. When such a one is disarmed, he is wholly at the mercy of his superior; and he loses for ever that time and those chances, which, as they happen to all men, are the strength and resources of all inferior power.

"The capital leading questions on which you must this day decide are these two. First, whether you ought to concede; and, secondly, what your concession ought to be. On the first of these questions we have gained (as I have just taken the liberty of observing to you) some ground. But I am sensible that a good deal more is still to be done. Indeed, Sir, to enable us to determine both on the one and the other of these great questions with a firm and precise judgment, I think it may be necessary to consider distinctly the true nature and the peculiar circumstances of the object which we have before us. Because, after all our struggle, whether we will or not, we must govern America according to that nature, and to those circumstances; and not according to our own imaginations; not according to abstract ideas of right; by no means according to mere general theories of government, the resort to which appears to me, in our present situation, no better than arrant trifling. I shall therefore endeavour, with your leave, to lay before you some of the most material of these circumstances in as full and as clear a manner as I am able to state them.

"The first thing that we have to consider with regard to the nature of the object is—the number of people in the colonies. I have taken for some years a good deal of pains on that point. I can by no calculation justify myself in placing the number below two millions of inhabitants of our own European blood and colour; besides at least 500,000 others, who form no inconsiderable part of the strength and opulence of the whole. This, Sir, is, I believe, about the true number. There is no occasion to exaggerate, where plain truth is of so much weight and importance. But whether I put the present numbers too high or too low, is a matter of little moment. Such is the strength with

which population shoots in that part of the world, that state the numbers as high as we will, whilst the dispute continues, the exaggeration ends. Whilst we are discussing any given magnitude, they are grown to it. Whilst we spend our time in deliberating on the mode of governing two millions, we shall find we have millions more to manage. Your children do not grow faster from infancy to manhood, than they spread from families to communities, and from villages to nations.

"I put this consideration of the present and the growing numbers in the front of our deliberation; because, Sir, this consideration will make it evident to a blunter discernment than yours, that no partial, narrow, contracted, pinched, occasional system will be at all suitable to such an object. It will show you, that it is not to be considered as one of those *minima* which are out of the eye and consideration of the law; not a paltry excrescence of the state; not a mean dependant, who may be neglected with little damage, and provoked with little danger. It will prove that some degree of care and caution is required in the handling such an object; it will show that you ought not, in reason, to trifle with so large a mass of the interests and feelings of the human race. You could at no time do so without guilt; and be assured you will not be able to do it long with impunity.

"But the population of this country, the great and growing population, though a very important consideration, will lose much of its weight, if not combined with other circumstances. The commerce of your colonies is out of all proportion beyond the numbers of the people. This ground of their commerce, indeed, has been trod some days ago, and with great ability, by a distinguished person, at your bar.* This gentleman, after thirty-five years—it is so long since he first appeared at the same place to plead for the commerce of Great Britain—has come again before you to plead the same cause, without any other effect of time, than, that to the fire of imagination and extent of erudition, which even then marked him as one of the first literary characters of his age, he has added a consummate knowledge in the commercial interest of his country, formed by a long course of enlightened and discriminating experience.

"Sir, I should be inexcusable in coming after such a person with any detail, if a great part of the members who now fill the House had not the misfortune to be absent when he appeared at your bar. Besides, Sir, I propose to take the matter at periods of time somewhat different from his. There is, if I mistake not, a point of view from whence, if you will look at this subject, it is impossible that it should not make an impression upon you.

"I have in my hand two accounts; one, a comparative state of the export trade of England to its colonies, as it stood in the year 1704, and as it stood in the year 1772. The other, a state of the export trade of this country to its colonies alone, as it stood in 1772, compared with the whole trade of England to all parts of the world (the colonies included), in the year 1704. They are

* Mr. Richard Glover, a gentleman celebrated for his commercial knowledge, who had in 1760 represented Weymouth, in Parliament.

from good vouchers; the latter period from the accounts on your table, the earlier from an original manuscript of Davenant,* who first established the inspector-general's office, which has been ever since his time so abundant a source of parliamentary information.

"The export trade to the colonies consists of three great branches. The African, which, terminating almost wholly in the colonies, must be put to the account of their commerce; the West Indian; and the North American. All these are so interwoven, that the attempt to separate them would tear to pieces the contexture of the whole; and, if not entirely destroyed, would very much depreciate the value of all the parts. I, therefore, consider these three denominations to be, what in effect they are, one trade.

"The trade to the colonies, taken on the export side, at the beginning of this century, that is, in the year 1704, stood thus:—

Exports to North America and the West Indies	£483,265
To Africa	86,665
	569,930

"In the year 1772, which I take as a middle year between the highest and lowest of those lately laid on your table, the account was as follows:—

To North America and the West Indies	£4,791,734
To Africa	866,398
To which, if you add the export trade from Scotland, which had, in 1704, no existence	364,000
	6,022,132

"From five hundred and odd thousand, it has grown to six millions. It has increased no less than twelve-fold. This is the state of the colony trade as compared with itself at these two periods within this century; and this is matter for meditation. But this is not all. Examine my second account. See how the export trade to the colonies alone in 1772 stood in the other point of view, that is, as compared to the whole trade of England in 1704:—

The whole export trade of England, including that to the colonies in 1704	£6,509,000
Export to the colonies alone in 1772	6,024,000
Difference .	485,000

"The trade with America alone is now within less than £500,000 of being equal to what this great commercial nation, England, carried on at the

* Charles Davenant, D.C.L., was a celebrated political writer, who sat in the Parliament of 1685, and became a Commissioner of Excise, and Inspector-general of the Exports and Imports. He died in 1714.

beginning of this century with the whole world!* If I had taken the largest year of those on your table, it would rather have exceeded. But it will be said, Is not this American trade an unnatural protuberance, that has drawn the juices from the rest of the body? The reverse. It is the very food that has nourished every other part into its present magnitude. Our general trade has been greatly augmented; and augmented more or less in almost every part to which it ever extended; but with this material difference, that of the six millions which in the beginning of the century constituted the whole mass of our export commerce, the colony trade was but one twelfth part; it is now (as a part of sixteen millions) considerably more than a third of the whole. This is the relative proportion of the importance of the colonies at these two periods: and all reasoning concerning our mode of treating them must have this proportion as its basis; or it is a reasoning weak, rotten, and sophistical.

"Mr. Speaker, I cannot prevail on myself to hurry over this great consideration. It is good for us to be here. We stand where we have an immense view of what is, and what is past. Clouds, indeed, and darkness, rest upon the future. Let us, however, before we descend from this noble eminence, reflect that this growth of our national prosperity has happened within the short period of the life of man — it has happened within sixty-eight years. There are those alive whose memory might touch the two extremities. For instance, my Lord Bathurst† might remember all the stages of the progress. He was in 1704 of an age at least to be made to comprehend such things. He was then old enough *acta parentum jam legere, et quæ sit poterit cognoscere virtus.* Suppose, Sir, that the angel of this auspicious youth, foreseeing the many virtues which made him one of the most amiable, as he is one of the most fortunate men of his age, had opened to him in vision, that when, in the fourth generation, the third prince of the

* In 1838 the declared value of British and Irish produce and manufactures exported was—

To British America	£1,992,457	
" United States	7,585,760	
		£9,578,217
British and Foreign West Indies		4,708,972
Africa		1,847,759
		£16,134,948

The value of the whole export trade in 1838 was—

To British possessions	£13,581,830
To Foreign States	36,479,140
Total	£50,060,970

† Allen, Earl Bathurst, was born in 1684. In 1705 he was returned member for Cirencester, and became a zealous opponent of Sir Robert Walpole. In 1711 he was made a peer, by the title of Baron Bathurst, and in 1772 was created Earl Bathurst. He died in 1775, aged 91. In his lifetime he enjoyed the friendship of Swift, Pope, Addison, Gay, and other eminent men of his time.

house of Brunswick had sat twelve years on the throne of that nation, which —by the happy issue of moderate and healing councils—was to be made Great Britain, he should see his son, Lord Chancellor of England,* turn back the current of hereditary dignity to its fountain, and raise him to a higher rank of peerage, whilst he enriched the family with a new one;—if amidst these bright and happy scenes of domestic honour and prosperity, that angel should have drawn up the curtain, and unfolded the rising glories of his country, and whilst he was gazing with admiration on the then commercial grandeur of England, the genius should point out to him a little speck, scarce visible in the mass of the national interest, a small seminal principle, rather than a formed body, and should tell him—'Young man, there is America—which at this day serves for little more than to amuse you with stories of savage men and uncouth manners; yet shall, before you taste of death, show itself equal to the whole of that commerce which now attracts the envy of the world. Whatever England has been growing to by a progressive increase of improvement, brought in by varieties of people, by succession of civilising conquests and civilising settlements in a series of 1,700 years, you shall see as much added to her by America in the course of a single life!' If this state of his country had been foretold to him, would it not require all the sanguine credulity of youth, and all the fervid glow of enthusiasm, to make him believe it? Fortunate man, he has lived to see it! Fortunate, indeed, if he lives to see nothing that shall vary the prospect, and cloud the setting of his day!

"Excuse me, Sir, if, turning from such thoughts, I resume this comparative view once more. You have seen it on a large scale; look at it on a small one. I will point out to your attention a particular instance of it in the single province of Pennsylvania. In the year 1704, that province called for £11,459 in value of your commodities, native and foreign. This was the whole. What did it demand in 1772? Why nearly fifty times as much; for in that year the export to Pennsylvania was £507,909, nearly equal to the export of all the colonies together in the first period.

"I choose, Sir, to enter into these minute and particular details; because generalities, which in all other cases are apt to heighten and raise the subject, have here a tendency to sink it. When we speak of the commerce with our colonies, fiction lags after truth: invention is unfruitful, and imagination cold and barren.

"So far, Sir, as to the importance of the object in the view of its commerce, as concerned in the exports from England. If I were to detail the imports, I could show how many enjoyments they procure, which deceive the burthen of life; how many materials which invigorate the springs of national industry, and extend and animate every part of our foreign and domestic commerce. This would be a curious subject indeed—but I must prescribe bounds to myself in a matter so vast and various.

* Henry, Lord Bathurst, son of the above, was created Baron Apsley, and raised to the dignity of Lord High Chancellor in 1771.

"I pass, therefore, to the colonies in another point of view, their agriculture. This they have prosecuted with such a spirit, that, besides feeding plentifully their own growing multitude, their annual export of grain, comprehending rice, has some years ago exceeded a million in value. Of their last harvest, I am persuaded, they will export much more. At the beginning of the century, some of these colonies imported corn from the mother country. For some time past, the old world has been fed from the new. The scarcity which you have felt would have been a desolating famine, if this child of your old age, with a true filial piety, with a Roman charity, had not put the full breast of its youthful exuberance to the mouth of its exhausted parent.

"As to the wealth which the colonies have drawn from the sea by their fisheries, you had all that matter fully opened at your bar. You surely thought those acquisitions of value, for they seemed even to excite your envy; and yet the spirit by which that enterprising employment has been exercised ought rather, in my opinion, to have raised your esteem and admiration. And pray, Sir, what in the world is equal to it? Pass by the other parts, and look at the manner in which the people of New England have of late carried on the whale fishery. Whilst we follow them among the tumbling mountains of ice, and behold them penetrating into the deepest frozen recesses of Hudson's Bay and Davis's Straits; whilst we are looking for them beneath the arctic circle, we hear that they have pierced into the opposite region of polar cold, that they are at the antipodes, and engaged under the frozen serpent of the south. Falkland Island, which seemed too remote and romantic an object for the grasp of national ambition, is but a stage and resting-place in the progress of their victorious industry. Nor is the equinoctial heat more discouraging to them than the accumulated winter of both the poles. We know that whilst some of them draw the line and strike the harpoon on the coast of Africa, others run the longitude, and pursue their gigantic game along the coast of Brazil. No sea but what is vexed by their fisheries. No climate that is not witness to their toils. Neither the perseverance of Holland, nor the activity of France, nor the dexterous and firm sagacity of English enterprise, ever carried this most perilous mode of hard industry to the extent to which it has been pushed by this recent people; a people who are still, as it were, but in the gristle, and not yet hardened into the bone of manhood. When I contemplate these things; when I know that the colonies in general owe little or nothing to any care of ours, and that they are not squeezed into this happy form by the constraints of watchful and suspicious government, but that, through a wise and salutary neglect, a generous nature has been suffered to take her own way to perfection; when I reflect upon these effects, when I see how profitable they have been to us, I feel all the pride of power sink, and all presumption in the wisdom of human contrivances melt, and die away within me. My rigour relents. I pardon something to the spirit of liberty.

"I am sensible, Sir, that all which I have asserted, in my detail, is

admitted in the gross; but that quite a different conclusion is drawn from it. America, gentlemen say, is a noble object. It is an object well worth fighting for. Certainly it is, if fighting a people be the best way of gaining them. Gentlemen in this respect will be led to their choice of means by their complexions and their habits. Those who understand the military art will of course have some predilection for it. Those who wield the thunder of the state, may have more confidence in the efficacy of arms. But I confess, possibly for want of this knowledge, my opinion is much more in favour of prudent management, than of force; considering force not as an odious but a feeble instrument, for preserving a people so numerous, so active, so growing, so spirited as this, in a profitable and subordinate connexion with us.

"First, Sir, permit me to observe, that the use of force alone is but *temporary*. It may subdue for a moment; but it does not remove the necessity of subduing again: and a nation is not governed, which is perpetually to be conquered.

"My next objection is *uncertainty*. Terror is not always the effect of force; and an armament is not a victory. If you do not succeed, you are without resource; for, conciliation failing, force remains; but, force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness; but they can never be begged as alms, by an impoverished and defeated violence.

"A further objection to force is, that you *impair the object* by your very endeavours to preserve it. The thing you fought for is not the thing which you recover; but depreciated, sunk, wasted, and consumed in the contest. Nothing less will content me, than *whole America*. I do not choose to consume its strength along with our own; because in all parts it is the British strength that I consume. I do not choose to be caught by a foreign enemy at the end of this exhausting conflict, and still less in the midst of it. I may escape; but I can make no insurance against such an event. Let me add, that I do not choose wholly to break the American spirit, because it is the spirit that has made the country.

"Lastly, we have no sort of *experience* in favour of force as an instrument in the rule of our colonies. Their growth and their utility has been owing to methods altogether different. Our ancient indulgence has been said to be pursued to a fault. It may be so. But we know, if feeling is evidence, that our fault was more tolerable than our attempt to mend it, and our sin far more salutary than our penitence. These, Sir, are my reasons for not entertaining that high opinion of untried force, by which many gentlemen, for whose sentiments in other particulars I have great respect, seem to be so greatly captivated. But there is still behind a third consideration concerning this object, which serves to determine my opinion on the sort of policy which ought to be pursued in the management of America, even more than its population and its commerce,—I mean its *temper and character*.

"In this character of the Americans, a love of freedom is the predominating feature which marks and distinguishes the whole; and as an ardent is always a jealous affection, your colonies become suspicious, restive, and untractable, whenever they see the least attempt to wrest from them by force, or shuffle from them by chicane, what they think the only advantage worth living for. This fierce spirit of liberty is stronger in the English colonies probably than in any other people of the earth; and this from a great variety of powerful causes; which, to understand the true temper of their minds, and the direction which this spirit takes, it will not be amiss to lay open somewhat more largely.

"First, the people of the colonies are descendants of Englishmen. England, Sir, is a nation which still, I hope, respects, and formerly adored her freedom. The colonists emigrated from you, when this part of your character was most predominant; and they took this bias and direction the moment they parted from your hands. They are, therefore, not only devoted to liberty, but to liberty according to English ideas, and on English principles. Abstract liberty, like other mere abstractions, is not to be found. Liberty inheres in some sensible object; and every nation has formed to itself some favourite point, which by way of eminence becomes the criterion of their happiness. It happened, you know, Sir, that the great contests for freedom in this country were from the earliest times chiefly upon the question of taxing. Most of the contests in the ancient commonwealths turned primarily on the right of election of magistrates; or on the balance among the several orders of the state. The question of money was not with them so immediate. But in England it was otherwise. On this point of taxes the ablest pens, and most eloquent tongues, have been exercised; the greatest spirits have acted and suffered. In order to give the fullest satisfaction concerning the importance of this point, it was not only necessary for those, who in argument defended the excellence of the English constitution, to insist on this privilege of granting money as a dry point of fact, and to prove, that the right had been acknowledged in ancient parchments, and blind usages, to reside in a certain body called a House of Commons:—they went much further; they attempted to prove, and they succeeded, that in theory it ought to be so, from the particular nature of a House of Commons, as an immediate representative of the people; whether the old records had delivered this oracle or not. They took infinite pains to inculcate, as a fundamental principle, that, in all monarchies, the people must in effect themselves mediately or immediately possess the power of granting their own money, or no shadow of liberty could subsist. The colonies draw from you, as with their life-blood, these ideas and principles; their love of liberty, as with you, fixed and attached on this specific point of taxing. Liberty might be safe, or might be endangered, in twenty other particulars, without their being much pleased or alarmed. Here they felt its pulse; and as they found that beat, they thought themselves sick or sound. I do not say whether they were right or wrong in applying your general arguments to their own case. It is not easy, indeed, to make a monopoly

of theorems and corollaries. The fact is, that they did thus apply those general arguments ; and your mode of governing them, whether through lenity or indolence, through wisdom or mistake, confirmed them in the imagination, that they, as well as you, had an interest in these common principles.

" They were further confirmed in this pleasing error, by the form of their provincial legislative assemblies. Their governments are popular in a high degree ; some are merely popular ; in all, the popular representative is the most weighty* ; and this share of the people in their ordinary government never fails to inspire them with lofty sentiments, and with a strong aversion from whatever tends to deprive them of their chief importance.

" If anything were wanting to this necessary operation of the form of government, religion would have given it a complete effect. Religion, always a principle of energy, in this new people, is no way worn out or impaired ; and their mode of professing it is also one main cause of this free spirit. The people are Protestants ; and of that kind which is the most adverse to all implicit submission of mind and opinion. This is a persuasion not only favourable to liberty, but built upon it. I do not think, Sir, that the reason of this averseness in the Dissenting churches from all that looks like absolute government is so much to be sought in their religious tenets, as in their history. Every one knows that the Roman Catholic religion is at least coeval with most of the governments where it prevails ; that it has generally gone hand in hand with them ; and received great favour and every kind of support from authority. The Church of England, too, was formed from her cradle under the nursing care of regular government. But the Dissenting interests have sprung up in direct opposition to all the ordinary powers of the world ; and could justify that opposition only on a strong claim to natural liberty. Their very existence depended on the powerful and unremitted assertion of that claim. All Protestantism, even the most cold and passive, is a sort of dissent. But the religion most prevalent in our northern colonies is a refinement on the principle of resistance ; it is the dissidence of Dissent, and the Protestantism of the Protestant religion. This religion, under a variety of denominations, agreeing in nothing but in the communion of the spirit of liberty, is predominant in most of the northern provinces, where the Church of England, notwithstanding its legal rights, is in reality no more than a sort of private sect, not composing, most probably, the tenth of the people. The colonists left England when this spirit was high ;†

* In some provinces, the governors and magistrates were elected by the people. In others, the governors and chief officers were appointed by the Crown, but controlled by assemblies, the members of which were chosen by the freeholders.

† The Puritans, having suffered severe persecutions in consequence of the passing of the Act of Uniformity in the reign of Queen Elizabeth, applied to her successor, King James, to permit them to establish themselves in his North American dominions, in the full exercise of religious liberty. But James refused to comply fully with their request, merely assuring them that he would, on their emigration, not take notice of their infringement of the statute. On the faith of this they embarked, to the number of 101, in 1620, and, after enduring great privations and hostilities from the natives, spread themselves over the province of Massachusetts.

and in the emigrants was the highest of all; and even that stream of foreigners, which has been constantly flowing into these colonies, has, for the greater part, been composed of dissenters from the establishment of their several countries, and have brought with them a temper and character far from alien to that of the people with whom they mixed.

"Sir, I can perceive, by their manner, that some gentlemen object to the latitude of this description; because in the southern colonies the Church of England forms a large body, and has a regular establishment. It is certainly true. There is, however, a circumstance attending these colonies, which, in my opinion, fully counterbalances this difference, and makes the spirit of liberty still more high and haughty than in those to the northward. It is that, in Virginia and the Carolinas, they have a vast multitude of slaves. Where this is the case in any part of the world, those who are free, are by far the most proud and jealous of their freedom. Freedom is to them not only an enjoyment, but a kind of rank and privilege. Not seeing there, that freedom, as in countries where it is a common blessing, and as broad and general as the air, may be united with much abject toil, with great misery, with all the exterior of servitude, liberty looks, amongst them, like something that is more noble and liberal. I do not mean, Sir, to commend the superior morality of this sentiment, which has at least as much pride as virtue in it; but I cannot alter the nature of man. The fact is so, and these people of the southern colonies are much more strongly, and with a higher and more stubborn spirit, attached to liberty, than those to the northward. Such were all the ancient commonwealths; such were our Gothic ancestors; such in our days were the Poles;* and such will be all masters of slaves, who are not slaves themselves. In such a people the haughtiness of domination combines with the spirit of freedom, fortifies it, and renders it invincible.

"Permit me, Sir, to add another circumstance in our colonies, which contributes no mean part towards the growth and effect of this untractable spirit. I mean, their education. In no country, perhaps, in the world, is the law so general a study. The profession itself is numerous and powerful; and in most provinces it takes the lead. The greater number of the deputies sent to the congress were lawyers. But all who read, and most do read, endeavour to obtain some smattering in that science. I have been told by an eminent bookseller, that in no branch of his business, after tracts of popular devotion, were so many books as those on the law exported to the Plantations. The colonists have now fallen into the way of printing them for their own use. I hear that they have sold nearly as many of Blackstone's Commentaries in America as in

* The condition of the peasantry in Poland was complete slavery to the nobles. In no European country was their condition so abject and wretched, not even excepting that of the Russian boors. At the time of Mr. Burke's speech, Poland had ceased to exist as a nation, the first partition of the country having been made between Russia, Austria, and Prussia, in 1772.

England. General Gage* marks out this disposition very particularly in a letter on your table. He states, that all the people in his government are lawyers, or smatterers in law; and that in Boston they have been enabled, by successful chicane, wholly to evade many parts of one of your capital penal constitutions.† The smartness of debate will say, that this knowledge ought to teach them more clearly the rights of legislature, their obligations to obedience, and the penalties of rebellion. All this is mighty well. But my honourable and learned friend on the floor (the Attorney-general‡) who condescends to mark what I say for animadversion, will disdain that ground. He has heard, as well as I, that when great honours and great emoluments do not win over this knowledge to the service of the state, it is a formidable adversary to government. If the spirit be not tamed and broken by these happy methods, it is stubborn and litigious. *Abeunt studia in mores.* This study renders men acute, inquisitive, dexterous, prompt in attack, ready in defence, full of resources. In other countries, the people, more simple, and of a less mercurial cast, judge of an ill principle in government only by an actual grievance; here they anticipate the evil, and judge of the pressure of the grievance by the badness of the principle. They augur misgovernment at a distance; and snuff the approach of tyranny in every tainted breeze.

"The last cause of this disobedient spirit in the colonies is hardly less powerful than the rest, as it is not merely moral, but laid deep in the natural constitution of things. Three thousand miles of ocean lie between you and them. No contrivance can prevent the effect of this distance, in weakening government. Seas roll, and months pass, between the order and the execution: and the want of a speedy explanation of a single point, is enough to defeat a whole system. You have, indeed, winged ministers of vengeance, who carry your bolts in their pounces to the remotest verge of the sea. But there a power steps in, that limits the arrogance of raging passions and furious elements, and says, 'So far shalt thou go, and no farther.' Who are you, that should fret and rage, and bite the chains of nature? Nothing worse happens to you, than does to all nations, who have extensive empire; and it happens in all the forms into which empire can be thrown. In large bodies, the circulation of power must be less vigorous at the extremities.

* Governor of Massachusetts.

† Among other instances, Mr. Burke probably alluded to the following: General Gage, in pursuance of the provisions of the coercive statutes, issued a proclamation forbidding the calling of any town meetings after the 1st of August, 1774; notwithstanding which, an assembly of this kind was held; and on the Government proceeding to take measures to disperse it, the legality of the meeting was confidently maintained, on the ground that the act only prohibited the *calling* of town meetings, and no such calling had been made, a former legal meeting, before the 1st of August, having only been *adjourned* from time to time.

‡ Mr. (afterwards Lord) Thurlow.

Nature has said it. The Turk cannot govern Egypt, and Arabia, and Curdistan, as he governs Thrace ; nor has he the same dominion in Crimea and Algiers, which he has at Brusa and Smyrna. Despotism itself is obliged to truck and huckster. The Sultan gets such obedience as he can. He governs with a loose rein, that he may govern at all; and the whole of the force and vigour of his authority in his centre, is derived from a prudent relaxation in all his borders. Spain, in her provinces, is, perhaps, not so well obeyed, as you are in yours. She complies too; she submits; she watches times. This is the immutable condition, the eternal law, of extensive and detached empire.

" Then, Sir, from these six capital sources,—of descent; of form of government; of religion in the northern provinces ; of manners in the southern; of education; of the remoteness of situation from the first mover of government; from all these causes a fierce spirit of liberty has grown up. It has grown with the growth of the people in your colonies, and increased with the increase of their wealth; a spirit, that unhappily meeting with an exercise of power in England, which, however lawful, is not reconcileable to any ideas of liberty, much less with theirs, has kindled this flame, that is ready to consume us.

" I do not mean to commend either the spirit in this excess, or the moral causes which produce it. Perhaps a more smooth and accommodating spirit of freedom in them would be more acceptable to us. Perhaps ideas of liberty might be desired more reconcileable with an arbitrary and boundless authority. Perhaps we might wish the colonists to be persuaded, that their liberty is more secure when held in trust for them by us (as their guardians during a perpetual minority) than with any part of it in their own hands. But the question is, not whether their spirit deserves praise or blame ;—what, in the name of God, shall we do with it ? You have before you the object; such as it is, with all its glories, with all its imperfections on its head. You see the magnitude, the importance, the temper, the habits, the disorders. By all these considerations, we are strongly urged to determine something concerning it. We are called upon to fix some rule and line for our future conduct, which may give a little stability to our politics, and prevent the return of such unhappy deliberations as the present. Every such return will bring the matter before us in a still more untractable form. For, what astonishing and incredible things have we not seen already ? What monsters have not been generated from this unnatural contention ? Whilst every principle of authority and resistance has been pushed, upon both sides, as far as it would go, there is nothing so solid and certain, either in reasoning or in practice, that has not been shaken. Until very lately, all authority in America seemed to be nothing but an emanation from yours. Even the popular part of the colony constitution derived all its activity, and its first vital movement, from the pleasure of the Crown. We thought, Sir, that the utmost which the discontented colonists could do, was to disturb authority ; we never dreamt they could of themselves supply it; knowing in general

what an operose business it is, to establish a government absolutely new. But having, for our purposes in this contention, resolved that none but an obedient assembly should sit, the humours of the people there, finding all passage through the legal channel stopped, with great violence broke out another way. Some provinces have tried their experiment, as we have tried ours ; and theirs has succeeded. They have formed a government sufficient for its purposes, without the bustle of a revolution, or the troublesome formality of an election.* Evident necessity, and tacit consent, have done the business in an instant. So well they have done it, that Lord Dunmore (the account is among the fragments on your table) tells you, that the new institution is infinitely better obeyed than the ancient government ever was in its most fortunate periods. Obedience is what makes government, and not the names by which it is called; not the name of governor, as formerly, or committee, as at present. This new government has originated directly from the people; and was not transmitted through any of the ordinary artificial media of a positive constitution. It was not a manufacture ready formed, and transmitted to them in that condition from England. The evil arising from hence is this; that the colonists having once found the possibility of enjoying the advantages of order, in the midst of a struggle for liberty, such struggles will not henceforward seem so terrible to the settled and sober part of mankind, as they had appeared before the trial.

" Pursuing the same plan of punishing by the denial of the exercise of government to still greater lengths, we wholly abrogated the ancient government of Massachusetts†. We were confident that the first feeling, if not the very prospect of anarchy, would instantly enforce a complete submission. The experiment was tried. A new, strange, unexpected face of things appeared. Anarchy is found tolerable. A vast province has now subsisted, and subsisted in a considerable degree of health and vigour, for near a twelvemonth, without governor, without public council, without judges,

* In pursuance of resolutions come to in every township in all the provinces, a certain number of deputies from every province were appointed to meet at Philadelphia in general congress. Accordingly, the Congress met on the 1st September, 1774, and agreed on the adoption of measures for opposing the attempts of Great Britain to levy taxes, and also for preventing all trade with her until the redress of their alleged grievances ; at the same time they resolved on the presentation of the petition to his Majesty, boldly asserting their rights as British subjects, which gave rise to the address from the two Houses of Parliament, and the passing of the restraining act mentioned *ante* note, p. 277.

† Mr. Burke alluded to the acts passed in 1774: one "for better regulating the government of Massachusetts Bay," by which all executive power was taken out of the hands of the people and placed in those of the Governor; and the other, "for the impartial administration of justice in the cases of persons questioned for any acts done while executing the law, or quelling riots in the province of Massachusetts;" by which the Governor might send any person charged with any capital offence in suppressing such tumults to another colony, or to Great Britain, for trial. This latter act was to continue in force for four years.

without executive magistrates. How long it will continue in this state, or what may arise out of this unheard-of situation, how can the wisest of us conjecture? Our late experience has taught us, that many of those fundamental principles, formerly believed infallible, are either not of the importance they were imagined to be; or that we have not at all adverted to some other far more important and far more powerful principles, which entirely over-rule those we had considered as omnipotent. I am much against further experiments, which tend to put to the proof any more of these allowed opinions, which contribute so much to the public tranquillity. In effect, we suffer as much at home, by this loosening of all ties, and this concussion of all established opinions, as we do abroad. For, in order to prove that the Americans have no right to their liberties, we are every day endeavouring to subvert the maxims which preserve the whole spirit of our own. To prove that the Americans ought not to be free, we are obliged to depreciate the value of freedom itself; and we never seem to gain a paltry advantage over them in debate, without attacking some of those principles, or deriding some of those feelings, for which our ancestors have shed their blood.

"But, Sir, in wishing to put an end to pernicious experiments, I do not mean to preclude the fullest inquiry. Far from it. Far from deciding on a sudden or partial view, I would patiently go round and round the subject, and survey it minutely in every possible aspect. Sir, if I were capable of engaging you to an equal attention, I would state, that, as far as I am capable of discerning, there are but three ways of proceeding relative to this stubborn spirit which prevails in your colonies and disturbs your government. These are—to change that spirit, as inconvenient, by removing the causes; to prosecute it as criminal; or, to comply with it as necessary. I would not be guilty of an imperfect enumeration; I can think of but these three. Another has, indeed, been started, that of giving up the colonies; but it met so slight a reception, that I do not think myself obliged to dwell a great while upon it. It is nothing but a little sally of anger, like the frowardness of peevish children, who, when they cannot get all they would have, are resolved to take nothing.

"The first of these plans, to change the spirit as inconvenient, by removing the causes, I think is the most like a systematic proceeding. It is radical in its principle; but it is attended with great difficulties, some of them little short, as I conceive, of impossibilities. This will appear, by examining into the plans which have been proposed.

"As the growing population of the colonies is evidently one cause of their resistance, it was last session mentioned in both Houses, by men of weight, and received not without applause, that, in order to check this evil, it would be proper for the Crown to make no further grants of land. But to this scheme there are two objections. The first, that there is already so much unsettled land in private hands, as to afford room for an immense future population, although the Crown not only withheld its grants, but annihilated its soil. If this be the case, then the only effect of this avarice of desolation,

this hoarding of a royal wilderness, would be to raise the value of the possessions in the hands of the great private monopolists without any adequate check to the growing and alarming mischief of population.

"But if you stopped your grants, what would be the consequence? The people would occupy without grants. They have already so occupied in many places. You cannot station garrisons in every part of these deserts. If you drive the people from one place, they will carry on their annual tillage, and remove with their flocks and herds to another. Many of the people in the back settlements are already little attached to particular situations. Already they have topped the Apalachian mountains. From thence they behold before them an immense plain, one vast, rich, level meadow; a square of five hundred miles. Over this they would wander, without a possibility of restraint; they would change their manners with the habits of their life; would soon forget a government by which they were disowned: would become hordes of English Tartars; and, pouring down upon your unfortified frontiers a fierce and irresistible cavalry, become masters of your governors and your counsellors, your collectors and comptrollers, and of all the slaves that adhered to them. Such would, and, in no long time, must be, the effect of attempting to forbid as a crime, and to suppress as an evil, the command and blessing of Providence, 'Increase and multiply.' Such would be the happy result of an endeavour to keep as a lair of wild beasts, that earth, which God, by an express charter, has given to the children of men. Far different, and surely much wiser, has been our policy hitherto. Hitherto, we have invited our people, by every kind of bounty, to fixed establishments. We have invited the husbandman to look to authority for his title. We have taught him piously to believe in the mysterious virtue of wax and parchment. We have thrown each tract of land, as it was peopled, into districts; that the ruling power should never be wholly out of sight. We have settled all we could; and we have carefully attended every settlement with government.

"Adhering, Sir, as I do, to this policy, as well as for the reasons I have just given, I think this new project of hedging in population to be neither prudent nor practicable.

"To impoverish the colonies in general, and in particular to arrest the noble course of their marine enterprises, would be a more easy task. I freely confess it. We have shown a disposition to a system of this kind; a disposition even to continue the restraint after the offence; looking on ourselves as rivals to our colonies, and persuaded that of course we must gain all that they shall lose. Much mischief we may certainly do. The power inadequate to all other things is often more than sufficient for this. I do not look on the direct and immediate power of the colonies to resist our violence, as very formidable. In this, however, I may be mistaken. But when I consider, that we have colonies for no purpose but to be serviceable to us, it seems to my poor understanding a little preposterous, to make them unserviceable, in order to keep them obedient. It is, in truth, nothing more than the old,

and, as I thought, exploded problem of tyranny, which proposes to beggar its subjects into submission. But remember, when you have completed your system of impoverishment, that nature still proceeds in her ordinary course; that discontent will increase with misery; and that there are critical moments in the fortune of all states, when they who are too weak to contribute to your prosperity may be strong enough to complete your ruin. *Spoliatis arma supersunt.*

"The temper and character, which prevail in our colonies, are, I am afraid, unalterable by any human art. We cannot, I fear, falsify the pedigree of this fierce people, and persuade them that they are not sprung from a nation, in whose veins the blood of freedom circulates. The language in which they would hear you tell them this tale, would detect the imposition; your speech would betray you. An Englishman is the unfittest person on earth to argue another Englishman into slavery.

"I think it is nearly as little in our power to change their republican religion, as their free descent; or to substitute the Roman Catholic, as a penalty; or the Church of England, as an improvement. The mode of inquisition and dragooning is going out of fashion in the old world; and I should not confide much to their efficacy in the new. The education of the Americans is also on the same unalterable bottom with their religion. You cannot persuade them to burn their books of curious science; to banish their lawyers from the courts of law; or to quench the lights of their assemblies, by refusing to choose those persons who are best read in their privileges. It would be no less impracticable to think of wholly annihilating the popular assemblies, in which these lawyers sit. The army, by which we must govern in their place, would be far more chargeable to us; not quite so effectual; and, perhaps, in the end, full as difficult to be kept in obedience.

"With regard to the high aristocratic spirit of Virginia and the southern colonies, it has been proposed, I know, to reduce it, by declaring a general enfranchisement of their slaves. This project has had its advocates and panegyrists; yet I never could argue myself into any opinion of it. Slaves are often much attached to their masters. A general wild offer of liberty would not always be accepted. History furnishes few instances of it. It is sometimes as hard to persuade slaves to be free, as it is to compel freemen to be slaves; and in this auspicious scheme, we should have both these pleasing tasks on our hands at once. But when we talk of enfranchisement, do we not perceive that the American master may enfranchise too; and arm servile hands in defence of freedom? A measure to which other people have had recourse more than once, and not without success, in a desperate situation of their affairs.

"Slaves as these unfortunate black people are, and dull as all men are from slavery, must they not a little suspect the offer of freedom from that very nation which has sold them to their present masters?—from that nation, one of whose causes of quarrel with those masters, is their refusal to deal any more in that inhuman traffic? An offer of freedom from England, would

come rather oddly, shipped to them in an African vessel, which is refused an entry into the ports of Virginia or Carolina, with a cargo of three hundred Angola negroes. It would be curious to see the Guinea captain attempting at the same instant to publish his proclamation of liberty, and to advertise his sale of slaves.

"But let us suppose all these moral difficulties got over. The ocean remains. You cannot pump this dry; and as long as it continues in its present bed, so long all the causes which weaken authority by distance will continue. 'Ye gods, annihilate but space and time, and make two lovers happy!' was a pious and passionate prayer;—but just as reasonable as many of the serious wishes of very grave and solemn politicians.

"If then, Sir, it seems almost desperate to think of any alterative course, for changing the moral causes (and not quite easy to remove the natural) which produce prejudices irreconcileable to the late exercise of our authority; but that the spirit infallibly will continue; and, continuing, will produce such effects as now embarrass us; the second mode under consideration is, to prosecute that spirit in its overt acts as *criminal.*

"At this proposition, I must pause a moment. The thing seems a great deal too big for my ideas of jurisprudence. It should seem, to my way of conceiving such matters, that there is a very wide difference in reason and policy, between the mode of proceeding on the irregular conduct of scattered individuals, or even of bands of men, who disturb order within the state, and the civil dissensions which may, from time to time, on great questions, agitate the several communities which compose a great empire. It looks to me to be narrow and pedantic, to apply the ordinary ideas of criminal justice to this great public contest. I do not know the method of drawing up an indictment against a whole people. I cannot insult and ridicule the feelings of millions of my fellow-creatures, as Sir Edward Coke insulted one excellent individual (Sir Walter Raleigh) at the bar.* I am not ripe to pass sentence on the gravest public bodies, entrusted with magistracies of great authority and dignity, and charged with the safety of their fellow-citizens, upon the very same title that I am. I really think, that for wise men this is not judicious; for sober men, not decent; for minds tinctured with humanity, not mild and merciful.

"Perhaps, Sir, I am mistaken in my idea of an empire, as distinguished from a single state or kingdom. But my idea of it is this: that an empire is the aggregate of many states under one common head; whether this head be a monarch, or a presiding republic. It does, in such constitutions, frequently happen (and nothing but the dismal, cold, dead uniformity of servitude can prevent its happening) that the subordinate parts have many local privileges and immunities. Between these privileges, and the supreme common authority, the line may be extremely nice. Of course disputes, often too, very bitter disputes, and much ill blood, will arise. But though

* See Howell's State Trials, vol. ii., p. " *et seq.*

every privilege is an exemption (in the case) from the ordinary exercise of the supreme authority, it is no denial of it. The claim of a privilege seems rather, *ex vi termini*, to imply a superior power; for, to talk of the privileges of a state, or of a person who has no superior, is hardly any better than speaking nonsense. Now, in such unfortunate quarrels, among the component parts of a great political union of communities, I can scarcely conceive anything more completely imprudent, than for the head of the empire to insist, that, if any privilege is pleaded against his will, or his acts, that his whole authority is denied; instantly to proclaim rebellion, to beat to arms, and to put the offending provinces under the ban. Will not this, Sir, very soon teach the provinces, to make no distinctions on their part? Will it not teach them that the government, against which a claim of liberty is tantamount to high treason, is a government to which submission is equivalent to slavery? It may not always be quite convenient to impress dependent communities with such an idea.

"We are, indeed, in all disputes with the colonies, by the necessity of things, the judge. It is true, Sir. But I confess, that the character of judge in my own cause, is a thing that frightens me. Instead of filling me with pride, I am exceedingly humbled by it. I cannot proceed with a stern, assured, judicial confidence, until I find myself in something more like a judicial character. I must have these hesitations as long as I am compelled to recollect, that, in my little reading upon such contests as these, the sense of mankind has, at least, as often decided against the superior as the subordinate power. Sir, let me add, too, that the opinion of my having some abstract right in my favour would not put me much at my ease in passing sentence; unless I could be sure that there were no rights which, in their exercise under certain circumstances, were not the most odious of all wrongs, and the most vexatious of all injustice. Sir, these considerations have great weight with me, when I find things so circumstanced, that I see the same party, at once a civil litigant against me in point of right, and a culprit before me; while I sit as criminal judge, on acts of his, whose moral quality is to be decided upon the merits of that very litigation. Men are every now and then put, by the complexity of human affairs, into strange situations; but justice is the same, let the judge be in what situation he will.

"There is, Sir, also a circumstance which convinces me, that this mode of criminal proceeding is not (at least in the present stage of our contest) altogether expedient; which is nothing less than the conduct of those very persons who have seemed to adopt that mode, by lately declaring a rebellion in Massachusetts Bay,* as they had formerly addressed to have traitors brought hither under an act of Henry VIII. for trial.† For though rebellion is declared, it is not proceeded against as such; nor have any steps been taken towards the apprehension or conviction of any individual offender, either on our late or our former address; but modes of public coercion have been

* See *ante* notes, pp. 534 and 294.

† See *ante* p. 497, and note.

adopted, and such as have much more resemblance to a sort of qualified hostility towards an independent power than the punishment of rebellious subjects. All this seems rather inconsistent; but it shows how difficult it is to apply these juridical ideas to our present case.

"In this situation, let us seriously and coolly ponder. What is it we have got by all our menaces, which have been many and ferocious? What advantage have we derived from the penal laws we have passed, and which, for the time, have been severe and numerous? What advances have we made towards our object, by the sending of a force which, by land and sea, is no contemptible strength? Has the disorder abated? Nothing less. When I see things in this situation, after such confident hopes, bold promises, and active exertions, I cannot, for my life, avoid a suspicion, that the plan itself is not correctly right.

"If, then, the removal of the causes of this spirit of American liberty be, for the greater part, or rather entirely, impracticable; if the ideas of criminal process be inapplicable, or, if applicable, are in the highest degree inexpedient, what way yet remains? No way is open, but the third and last—to comply with the American spirit as necessary; or, if you please, to submit to it, as a necessary evil.

"If we adopt this mode; if we mean to conciliate and concede; let us see of what nature the concession ought to be: to ascertain the nature of our concession, we must look at their complaint. The colonies complain, that they have not the characteristic mark and seal of British freedom. They complain, that they are taxed in a parliament in which they are not represented. If you mean to satisfy them at all, you must satisfy them with regard to this complaint. If you mean to please any people, you must give them the boon which they ask; not what you may think better for them, but of a kind totally different. Such an act may be a wise regulation, but it is no concession; whereas our present theme is the mode of giving satisfaction.

"Sir, I think you must perceive that I am resolved this day to have nothing at all to do with the question of the right of taxation. Some gentlemen startle—but it is true: I put it totally out of the question. It is less than nothing in my consideration. I do not indeed wonder, nor will you, Sir, that gentlemen of profound learning are fond of displaying it on this profound subject. But my consideration is narrow, confined, and wholly limited to the policy of the question. I do not examine, whether the giving away a man's money be a power excepted and reserved out of the general trust of government; and how far all mankind, in all forms of polity, are entitled to an exercise of that right by the charter of nature. Or whether, on the contrary, a right of taxation is necessarily involved in the general principle of legislation, and inseparable from the ordinary supreme power. These are deep questions, where great names militate against each other; where reason is perplexed; and an appeal to authorities only thickens the confusion. For high and reverend authorities lift up their heads on both sides; and there is no sure footing in the middle.

This point is the ' great Serbonian bog, betwixt Damiata and Mount Casius old, where armies whole have sunk.' I do not intend to be overwhelmed in that bog, though in such respectable company. The question with me is, not whether you have a right to render your people miserable; but whether it is not your interest to make them happy. It is not what a lawyer tells me, I may do; but what humanity, reason, and justice tell me, I ought to do. Is a politic act the worse for being a generous one? Is no concession proper, but that which is made from your want of right to keep what you grant? Or does it lessen the grace or dignity of relaxing in the exercise of an odious claim, because you have your evidence-room full of titles, and your magazines stuffed with arms to enforce them? What signify all those titles, and all those arms? Of what avail are they, when the reason of the thing tells me, that the assertion of my title is the loss of my suit; and that I could do nothing but wound myself by the use of my own weapons?

" Such is steadfastly my opinion of the absolute necessity of keeping up the concord of this empire by an unity of spirit, though in a diversity of operations, that, if I were sure the colonists had, at their leaving this country, sealed a regular compact of servitude; that they had solemnly abjured all the rights of citizens; that they had made a vow to renounce all ideas of liberty for them and their posterity, to all generations, yet I should hold myself obliged to conform to the temper I found universally prevalent in my own day, and to govern two millions of men, impatient of servitude, on the principles of freedom. I am not determining a point of law; I am restoring tranquillity; and the general character and situation of a people must determine what sort of government is fitted for them. That point nothing else can or ought to determine.

" My idea, therefore, without considering whether we yield as matter of right, or grant as matter of favour, is *to admit the people of our colonies into an interest in the constitution;* and, by recording that admission in the journals of Parliament, to give them as strong an assurance as the nature of the thing will admit, that we mean for ever to adhere to that solemn declaration of systematic indulgence.

" Some years ago, the repeal of the revenue act, upon its understood principle, might have served to show, that we intended an unconditional abatement of the exercise of a taxing power. Such a measure was then sufficient to remove all suspicion, and to give perfect content.* But unfortunate events, since that time, may make something further necessary; and not more necessary for the satisfaction of the colonies, than for the dignity and consistency of our own future proceedings.

" I have taken a very incorrect measure of the disposition of the House, if this proposal in itself would be received with dislike. I think, Sir, we have few American financiers. But our misfortune is, we are too acute; we are too exquisite in our conjectures of the future, for men oppressed with

* See Introduction to Speech on American Taxation; *ante*, p. 487.

such great and present evils. The more moderate among the opposers of parliamentary concession freely confess that they hope no good from taxation; but they apprehend the colonists have further views; and if this point were conceded, they would instantly attack the trade laws. These gentlemen are convinced that this was the intention from the beginning; and the quarrel of the Americans with taxation was no more than a cloak and cover to this design. Such has been the language even of a gentleman (Mr. Rice) of real moderation, and of a natural temper so well adjusted to fair and equal government. I am, however, Sir, not a little surprised at this kind of discourse, whenever I hear it: and I am the more surprised, on account of the arguments which I constantly find in company with it, and which are often urged from the same mouths, and on the same day.

" For instance, when we allege that it is against reason to tax a people under so many restraints in trade as the Americans, the noble lord in the blue riband* shall tell you, that the restraints on trade are futile and useless; of no advantage to us, and of no burthen to those on whom they are imposed; that the trade to America is not secured by the acts of navigation, but by the natural and irresistible advantage of a commercial preference.

" Such is the merit of the trade laws in this posture of the debate. But when strong internal circumstances are urged against the taxes; when the scheme is dissected; when experience and the nature of things are brought to prove, and do prove, the utter impossibility of obtaining an effective revenue from the colonies; when these things are pressed, or rather press themselves, so as to drive the advocates of colony taxes to a clear admission of the futility of the scheme; then, Sir, the sleeping trade laws revive from their trance; and this useless taxation is to be kept sacred, not for its own sake, but as a counter-guard and security of the laws of trade.

" Then, Sir, you keep up revenue laws which are mischievous, in order to preserve trade laws that are useless. Such is the wisdom of our plan in both its members. They are separately given up as of no value, and yet one is always to be defended for the sake of the other. But I cannot agree with the noble lord, nor with the pamphlet from whence he seems to have borrowed these ideas, concerning the inutility of the trade laws. For without idolizing them, I am sure they are still, in many ways, of great use to us; and, in former times, they have been of the greatest. They do confine, and they do greatly narrow, the market for the Americans. But my perfect conviction of this does not help me in the least to discern how the revenue laws form any security whatsoever to the commercial regulations; or that these commercial regulations are the true ground of the quarrel; or, that the giving way, in any one instance of authority, is to lose all that may remain unconceded.

" One fact is clear and indisputable. The public and avowed origin of this quarrel was on taxation. This quarrel has indeed brought on new disputes on

* Lord North.

new questions; but certainly the least bitter and the fewest of all on trade laws. To judge which of the two be the real radical cause of quarrel, we have to see whether the commercial dispute did, in order of time, precede the dispute on taxation. There is not a shadow of evidence for it. Next, to enable us to judge whether, at this moment, a dislike to the trade laws be the real cause of quarrel, it is absolutely necessary to put the taxes out of the question by a repeal. See how the Americans act in this position, and then you will be able to discern correctly what is the true object of the controversy, or whether any controversy at all will remain. Unless you consent to remove this cause of difference, it is impossible, with decency, to assert that the dispute is not upon what it is avowed to be. And I would, Sir, recommend to your serious consideration, whether it be prudent to form a rule for punishing people, not on their own acts, but on your conjectures. Surely it is preposterous at the very best. It is not justifying your anger, by their misconduct; but it is converting your ill-will into their delinquency.

"But the colonies will go further. Alas! alas! when will this speculating against fact and reason end? What will quiet these panic fears which we entertain of the hostile effect of the conciliatory conduct? Is it true, that no case can exist, in which it is proper for the sovereign to accede to the desires of his discontented subjects? Is there anything peculiar in this case, to make a rule for itself? Is all authority of course lost, when it is not pushed to the extreme? Is it a certain maxim, that, the fewer causes of dissatisfaction are left by government, the more the subject will be inclined to resist and rebel?

"All these objections being in fact no more than suspicions, conjectures, divinations, formed in defiance of fact and experience; they did not, Sir, discourage me from entertaining the idea of a conciliatory concession, founded on the principles which I have just stated.

"In forming a plan for this purpose, I endeavoured to put myself in that frame of mind which was the most natural and the most reasonable; and which was certainly the most probable means of securing me from all error. I set out with a perfect distrust of my own abilities; a total renunciation of every speculation of my own; and with a profound reverence for the wisdom of our ancestors, who have left us the inheritance of so happy a constitution, and so flourishing an empire, and, what is a thousand times more valuable, the treasury of the maxims and principles which formed the one, and obtained the other.

"During the reigns of the kings of Spain of the Austrian family, whenever they were at a loss in the Spanish councils, it was common for their statesmen to say, that they ought to consult the genius of Philip the Second. The genius of Philip the Second might mislead them; and the issue of their affairs showed that they had not chosen the most perfect standard. But, Sir, I am sure that I shall not be misled, when, in a case of constitutional difficulty, I consult the genius of the English constitution. Consulting at that oracle (it was with all due humility and piety) I found four capital

examples in a similar case before me ; those of Ireland, Wales, Chester, and Durham.

" Ireland, before the English conquest, though never governed by a despotic power, had no parliament. How far the English parliament itself was at that time modelled according to the present form, is disputed among antiquaries. But we have all the reason in the world to be assured, that a form of parliament, such as England then enjoyed,* she instantly communicated to Ireland ; and we are equally sure, that almost every successive improvement in constitutional liberty, as fast as it was made here, was transmitted thither. The feudal baronage and the feudal knighthood, the roots of our primitive constitution, were early transplanted into that soil, and grew and flourished there. Magna Charta, if it did not give us originally the House of Commons, gave us at least a House of Commons of weight and consequence. But your ancestors did not churlishly sit down alone to the feast of Magna Charta. Ireland was made immediately a partaker.† This benefit of English laws and liberties, I confess, was not at first extended to *all* Ireland.‡ Mark the conse-

* In the Anglo-Saxon era the national council, or witenagemot, whose consent was necessary for the enactment of laws, may be looked on as the Parliament. The constituent members of this assembly were the bishops and abbots, the aldermen, or governors of counties (afterwards called Earls), and the proprietors of land to the extent of between 4000 and 5000 acres. Reasoning from analogy, it is most probable that as in the governments established by the Franks, Burgundians, and other northern nations, the Burgesses, or Commons, formed no part, so also they were not represented in the Saxon council, or witenagemot; at the time of the Conquest, as appears by Domesday book, the greatest boroughs were little more than country villages, whose inhabitants were considered as in a condition little superior to slavery. Even the privileges of a corporation were then unknown. It was, therefore, improbable that boroughs should send representatives to the great council of the nation; and, from the language of Magna Charta, it is apparent that at that time burgesses formed no part of the council.

One of the clauses of Magna Charta provided that "no scutage or aid shall be raised in our kingdom (with three exceptions), but by the general council of the nations;" and in order to prevent every ambiguity it is subsequently explained, that, to constitute this general council, "we shall cause the prelates and greater barons to be separately summoned by our letters, and we shall direct our sheriffs and bailiffs to summon generally all who hold of us in chief," but no mention is made of summoning burgesses.

The first representation of the Commons in Parliament is now generally admitted to have been in the 49th year of Henry III., when writs of summons bearing date 12th December, 1264, were issued by Simon de Montfort, Earl of Leicester, to cities and boroughs.

† The Archbishop of Dublin was one of the prelates by whose advice the great charter is said to have been granted; and a copy of it was transmitted to Ireland for the benefit of the King's subjects there, with those alterations only which the local necessities of Ireland required.

‡ The English colony which settled in Ireland on the occasion of Strongbow's invasion, and their descendants, kept themselves entirely distinct from the natives, and were afterwards denominated "the Pale;" and this was the main cause of the continual quarrels and feuds which ensued between the settlers and the natives, the latter being excluded from the protection of English law, which the Anglo-Irish, or inhabitants of the Pale, enjoyed.

To add to their misfortunes, the natives, while they were denied the protection of the

quence. English authority and English liberty had exactly the same boundaries. Your standard could never be advanced an inch before your privileges. Sir John Davis shows, beyond a doubt, that the refusal of a general communication of these rights, was the true cause why Ireland was five hundred years in subduing; and after the vain projects of a military government, attempted in the reign of Queen Elizabeth, it was soon discovered, that nothing could make that country English in civility and allegiance, but your laws and your forms of legislature.* It was not English arms, but the English constitution, that conquered Ireland. From that time, Ireland has ever had a general parliament, as she had before a partial parliament. You changed the people; you altered the religion; but you never touched the form or the vital substance of free government in that kingdom. You deposed kings; you restored them; you altered the succession to theirs, as well as to your own crown; but you never altered their constitution; the principle of which was respected by usurpation; restored with the restoration of monarchy, and established, I trust, for ever, by the glorious Revolution. This has made Ireland the great and flourishing kingdom that it is; and, from a disgrace and a burthen intolerable to this nation, has rendered her a principal part of our strength and ornament. This country cannot be said to have ever formally taxed her. The irregular things done in the confusion of mighty troubles, and on the hinge of great revolutions, even if all were done that is said to have been done, form no example. If they have any effect in argument, they make an exception to prove the rule. None of your own liberties could stand a moment, if the casual deviations from them, at such times, were suffered to be used as proofs of their nullity. By the lucrative amount of such casual breaches in the constitution, judge what the stated and fixed rule of supply has been in that kingdom. Your Irish pensioners would starve, if they had no other fund to live on than taxes granted by English authority. Turn your eyes to those popular grants from whence all your great supplies are come; and learn to respect that only source of public wealth in the British empire.

"My next example is Wales. This country was said to be reduced by Henry III.† It was said more truly to be so by Edward I. But though then conquered, it was not looked upon as any part of the realm of England. Its old constitution, whatever that might have been, was destroyed; and no

English law, were nevertheless punished by it for their offences. Thus, if an Irishman killed an inhabitant of the Pale he was tried by the English law, and made liable to execution for murder; while, on the the other hand, if an inhabitant of the Pale killed an Irishman, he was tried by the Irish law, which subjected him only to a fine.

* By the Act of Indemnity, of James I., the district of the Pale was extended over the whole of Ireland, and the same laws administered throughout the whole country. Forty new boroughs were at the same time created in Ireland.

† Wales never was reduced by Henry III., although in his reign it was subjected to vassalage to the English Monarch, through its Prince Llewellyn, who, at this price, bought the protection of Henry against his rebellious son, Griffin.

good one was substituted in its place. The care of that tract was put into a the hands of lords marchers*—a form of government of a very singular kind; a strange heterogeneous monster, something between hostility and government; perhaps it has a sort of resemblance, according to the modes of those times, to that of commander-in-chief at present, to whom all civil power is granted, as secondary. The manners of the Welsh nation followed the genius of the government: the people were ferocious, restiff, savage, and uncultivated; sometimes composed, never pacified. Wales, within itself, was in perpetual disorder; and it kept the frontier of England in perpetual alarm. Benefits from it to the state there were none. Wales was only known to England by incursion and invasion.

"Sir, during that state of things, Parliament was not idle. They attempted to subdue the fierce spirit of the Welsh by all sorts of rigorous laws. They prohibited by statute the sending all sorts of arms into Wales, as you prohibit by proclamation (with something more of doubt on the legality) the sending arms to America. They disarmed the Welsh by statute, as you attempted (but with still more question on the legality) to disarm New England by an instruction. They made an act to drag offenders from Wales into England for trial, as you have done—but with more hardship—with regard to America. By another act, where one of the parties was an Englishman, they ordained that his trial should be always by English. They made acts to restrain trade, as you do; and they prevented the Welsh from the use of fairs and markets, as you do the Americans from fisheries and foreign ports. In short, when the statute-book was not quite so much swelled as it is now, you find no less than fifteen acts of penal regulation on the subject of Wales.

"Here we rub our hands—a fine body of precedents for the authority of Parliament and the use of it! I admit it fully; and pray add likewise to those precedents, that all the while Wales rid this kingdom like an *incubus;* that it was an unprofitable and oppressive burthen; and that an Englishman travelling in that country could not go six yards from the high road without being murdered.

"The march of the human mind is slow. Sir, it was not until after two hundred years, discovered, that by an eternal law, Providence had decreed vexation to violence, and poverty to rapine. Your ancestors did, however, at length open their eyes to the ill husbandry of injustice. They found that the tyranny of a free people could of all tyrannies the least be endured; and that laws made against a whole nation were not the most effectual methods for securing its obedience. Accordingly, in the twenty-seventh year of Henry VIII., the course was entirely altered. With a preamble stating the entire and perfect rights of the crown of England, it gave to the Welsh all the rights and privileges of English subjects. A political order

* The Lords Marches were those noblemen who lived on the Marches, as the boundaries between England and Wales were called. According to Camden, they were, in fact, petty kings within their districts, having a jurisdiction of their own, and the power over life.

was established; the military power gave way to the civil; the marches were turned into counties. But that a nation should have a right to English liberties, and yet no share at all in the fundamental security of these liberties, the grant of their own property, seemed a thing so incongruous, that eight years after, that is, in the thirty-fifth year of that reign, a complete and not ill-proportioned representation by counties and boroughs was bestowed upon Wales, by act of Parliament. From that moment, as by a charm, the tumult subsided; obedience was restored; peace, order, and civilisation followed in the train of liberty. When the day-star of the English constitution had arisen in their hearts, all was harmony within and without—

"Simul alba nautis
Stella refulsit,
Defluit saxis agitatus humor:
Concidunt venti, fugiuntque nubes:
Et minax (quòd sic voluere) ponto
Unda recumbit."

"The very same year the county palatine of Chester received the same relief from its oppressions, and the same remedy to its disorders. Before this time, Chester was little less distempered than Wales. The inhabitants, without rights themselves, were the fittest to destroy the rights of others, and from thence Richard II. drew the standing army of archers, with which for a time he oppressed England. The people of Chester applied to Parliament in a petition penned as I shall read to you:—

"'To the king our sovereign lord, in most humble wise shown unto your excellent Majesty, the inhabitants of your Grace's county palatine of Chester; that where the said county palatine of Chester is and hath been always hitherto exempt, excluded, and separated out and from your high court of parliament, to have any knights and burgesses within the said court; by reason whereof the said inhabitants have hitherto sustained manifold disherisons, losses, and damages, as well in their lands, goods, and bodies, as in the good, civil, and politic governance and maintenance of the commonwealth of their said country: (2.) And forasmuch as the said inhabitants have always hitherto been bound by the acts and statutes made and ordained by your said Highness, and your most noble progenitors, by authority of the said court, as far forth as other counties, cities, and boroughs have been, that have had their knights and burgesses within your said court of Parliament, and yet have had neither knight nor burgess there for the said county palatine; the said inhabitants, for lack thereof, have been oftentimes touched and grieved with acts and statutes made within the said court, as well derogatory unto the most ancient jurisdictions, liberties, and privileges of your said county palatine, as prejudicial unto the commonwealth, quietness, rest, and peace of your Grace's most bounden subjects inhabiting within the same.'

"What did Parliament with this audacious address? Reject it as a libel? Treat it as an affront to government? Spurn it as a derogation from

the rights of legislature? Did they toss it over the table? Did they burn it by the hands of the common hangman? They took the petition of grievance, all rugged as it was, without softening or temperament, unpurged of the original bitterness and indignation of complaint; they made it the very preamble to their act of redress; and consecrated its principle to all ages in the sanctuary of legislation.

"Here is my third example. It was attended with the success of the two former. Chester, civilised as well as Wales, has demonstrated, that freedom and not servitude is the cure of anarchy; as religion, and not atheism, is the true remedy for superstition. Sir, this pattern of Chester was followed in the reign of Charles the Second, with regard to the county palatine of Durham, which is my fourth example. This county had long lain out of the pale of free legislation. So scrupulously was the example of Chester followed, that the style of the preamble is nearly the same with that of the Chester act; and without affecting the abstract extent of the authority of Parliament, it recognises the equity of not suffering any considerable district, in which the British subjects may act as a body, to be taxed without their own voice in the grant.

"Now, if the doctrines of policy contained in these preambles, and the force of these examples in the acts of parliaments, avail anything, what can be said against applying them with regard to America? Are not the people of America as much Englishmen as the Welsh? The preamble of the act of Henry VIII. says, the Welsh speak a language no way resembling that of his Majesty's English subjects. Are the Americans not as numerous? If we may trust the learned and accurate Judge Barrington's account of North Wales, and take that as a standard to measure the rest, there is no comparison. The people cannot amount to above 200,000: not a tenth part of the number in the colonies. Is America in rebellion? Wales was hardly ever free from it. Have you attempted to govern America by penal statutes? You made fifteen for Wales. But your legislative authority is perfect with regard to America; was it less perfect in Wales, Chester, and Durham? But America is virtually represented. What! does the electric force of virtual representation more easily pass over the Atlantic, than pervade Wales, which lies in your neighbourhood: or than Chester and Durham, surrounded by abundance of representation that is actual and palpable? But, Sir, your ancestors thought this sort of virtual representation, however ample, to be totally insufficient for the freedom of the inhabitants of territories that are so near, and comparatively so inconsiderable. How, then, can I think it sufficient for those which are infinitely greater, and infinitely more remote?

"You will now, Sir, perhaps imagine, that I am on the point of proposing to you a scheme for a representation of the colonies in Parliament. Perhaps I might be inclined to entertain some such thought; but a great flood stops me in my course. *Opposuit natura*—I cannot remove the eternal barriers of the creation. The thing in that mode, I do not know to be possible. As I

meddle with no theory, I do not absolutely assert the impracticability of such a representation. But I do not see my way to it; and those who have been more confident, have not been more successful. However, the arm of public benevolence is not shortened; and there are often several means to the same end. What nature has disjoined in one way, wisdom may unite in another. When we cannot give the benefit as we would wish, let us not refuse it altogether. If we cannot give the principal, let us find a substitute. But how? Where? What substitute?

"Fortunately I am not obliged, for the ways and means of this substitute, to tax my own unproductive invention. I am not even obliged to go to the rich treasury of the fertile framers of imaginary commonwealths: not to the Republic of Plato; not to the Utopia of More; not to the Oceana of Harrington. It is before me—it is at my feet, 'and the rude swain treads daily on it with his clouted shoon.' I only wish you to recognise, for the theory, the ancient constitutional policy of this kingdom with regard to representation, as that policy has been declared in acts of parliament; and, as to the practice, to return to that mode which an uniform experience has marked out to you as best; and in which you walked with security, advantage, and honour, until the year 1763.

"My resolutions, therefore, mean to establish the equity and justice of a taxation of America, by *grant* and not by *imposition;* to mark the *legal competency* of the colony assemblies for the support of their government in peace, and for public aids in time of war; to acknowledge that this legal competency has had *a dutiful and beneficial exercise;* and that experience has shown the *benefit of their grants*, and the *futility of parliamentary taxation as a method of supply.*

"These solid truths compose six fundamental propositions. There are three more resolutions corollary to these. If you admit the first set, you can hardly reject the others. But if you admit the first, I shall be far from solicitous whether you accept or refuse the last. I think these six massive pillars will be of strength sufficient to support the temple of British concord. I have no more doubt than I entertain of my existence, that, if you admitted these, you would command an immediate peace; and with but tolerable future management, a lasting obedience in America. I am not arrogant in this confident assurance. The propositions are all mere matters of fact; and if they are such facts as draw irresistible conclusions even in the stating, this is the power of truth, and not any management of mine.

"Sir, I shall open the whole plan to you together, with such observations on the motions as may tend to illustrate them where they may want explanation. The first is a resolution—'That the colonies and plantations of Great Britain in North America, consisting of fourteen separate governments, and containing two millions and upwards of free inhabitants, have not had the liberty and privilege of electing and sending any knights and burgesses, or others to represent them in the high court of Parliament.'—This is a plain matter of fact, necessary to be laid down, and (excepting the description) it

is laid down in the language of the constitution; it is taken nearly *verbatim* from acts of parliament.

"The second is like unto the first—'That the said colonies and plantations have been liable to, and bounden by, several subsidies, payments, rates, and taxes, given and granted by Parliament, though the said colonies and plantations have not their knights and burgesses, in the said high court of Parliament, of their own election, to represent the condition of their country; by lack whereof they have been oftentimes touched and grieved by subsidies, given, granted, and assented to, in the said court, in a manner prejudicial to the commonwealth, quietness, rest, and peace of the subjects inhabiting within the same.'

"Is this description too hot, or too cold, too strong, or too weak? Does it arrogate too much to the supreme legislature? Does it lean too much to the claims of the people? If it runs into any of these errors, the fault is not mine. It is the language of your own ancient acts of Parliament. '*Non meus hic sermo, sed quæ præcepit Ofellus, rusticus, abnormis sapiens.*' It is the genuine produce of the ancient, rustic, manly, home-bred sense of this country. I did not dare to rub off a particle of the venerable rust that rather adorns and preserves, than destroys the metal. It would be a profanation to touch with a tool the stones which construct the sacred altar of peace. I would not violate with modern polish the ingenuous and noble roughness of these truly constitutional materials. Above all things, I was resolved not to be guilty of tampering the odious vice of restless and unstable minds. I put my foot in the tracks of our forefathers; where I can neither wander nor stumble. Determining to fix articles of peace, I was resolved not to be wise beyond what was written; I was resolved to use nothing else than the form of sound words; to let others abound in their own sense; and carefully to abstain from all expressions of my own. What the law has said, I say. In all things else I am silent. I have no organ but for her words. This, if it be not ingenious, I am sure is safe.

"There are, indeed, words expressive of grievance in this second resolution, which those who are resolved always to be in the right, will deny to contain matter of fact, as applied to the present case; although Parliament thought them true, with regard to the counties of Chester and Durham. They will deny that the Americans were ever 'touched and grieved' with the taxes. If they consider nothing in taxes but their weight as pecuniary impositions, there might be some pretence for this denial. But men may be sorely touched and deeply grieved in their privileges, as well as in their purses. Men may lose little in property by the act which takes away all their freedom. When a man is robbed of a trifle on the highway, it is not the two-pence lost that constitutes the capital outrage. This is not confined to privileges. Even ancient indulgences withdrawn, without offence on the part of those who enjoyed such favours, operate as grievances. But were the Americans then not touched and grieved by the taxes, in some measure, merely as taxes? If so, why were they almost all, either wholly repealed or exceed-

ingly reduced? Were they not touched and grieved, even by the regulating duties of the sixth of George the Second? Else why were the duties first reduced to one-third in 1764, and afterwards to a third of that third in the year 1766? Were they not touched and grieved by the Stamp Act? I shall say they were, until that tax is revived. Were they not touched and grieved by the duties of 1767, which were likewise repealed, and which, Lord Hillsborough tells you (for the ministry) were laid contrary to the true principle of commerce? Is not the assurance given by that noble person to the colonies, of a resolution to lay no more taxes on them, an admission that taxes would touch and grieve them? Is not the resolution of the noble lord in the blue riband, now standing on your Journals, the strongest of all proofs that parliamentary subsidies really touched and grieved them? Else why all these changes, modifications, repeals, assurances, and resolutions?

"The next proposition is—'That, from the distance of the said colonies, and from other circumstances, no method hath hitherto been devised for procuring a representation in Parliament for the said colonies.' This is an assertion of fact. I go no further on the paper; though in my private judgment a useful representation is impossible; I am sure it is not desired by them; nor ought it, perhaps, by us; but I abstain from opinions.

"The fourth resolution is—'That each of the said colonies hath within itself a body, chosen in part, or in the whole, by the freemen, freeholders, or other free inhabitants thereof, commonly called the General Assembly, or general court, with powers legally to raise, levy, and assess, according to the several usage of such colonies, duties and taxes towards defraying all sorts of public services.'

"This competence in the colony assemblies is certain. It is proved by the whole tenor of their acts of supplying in all the assemblies, in which the constant style of granting is, 'an aid to his Majesty;' and acts granting to the Crown have regularly for near a century passed the public offices without dispute. Those who have been pleased paradoxically to deny this right, holding that none but the British Parliament can grant to the Crown, are wished to look to what is done, not only in the colonies, but in Ireland, in one uniform unbroken tenor every session. Sir, I am surprised that this doctrine should come from some of the law servants of the Crown. I say, that if the Crown could be responsible, his Majesty—but certainly the Ministers, and even these law officers themselves, through whose hands the acts pass biennially in Ireland, or annually in the colonies, are in habitual course of committing impeachable offences. What habitual offenders have been all presidents of the council, all secretaries of state, all first lords of trade, all attorneys and all solicitors-general! However, they are safe; as no one impeaches them; and there is no ground of charge against them, except in their own unfounded theories.

"The fifth resolution is also a resolution of fact—'That the said general assemblies, general courts, or other bodies legally qualified as aforesaid, have at sundry times freely granted several large subsidies and public aids for his

Majesty's service, according to their abilities, when required thereto by letter from one of his Majesty's principal secretaries of state; and that their right to grant the same, and their cheerfulness and sufficiency in the said grants, have been at sundry times acknowledged by Parliament.' To say nothing of their great expenses in the Indian wars; and not to take their exertion in foreign ones, so high as the supplies in the year 1695; not to go back to their public contributions in the year 1710; I shall begin to travel only where the journals give me light; resolving to deal in nothing but fact, authenticated by parliamentary record; and to build myself wholly on that solid basis.

"On the 4th of April, 1748, a committee of this House came to the following resolution:—

"'Resolved, That it is the opinion of this committee, *that it is just and reasonable* that the several provinces and colonies of Massachusetts Bay, New Hampshire, Connecticut, and Rhode Island, be reimbursed the expenses they have been at in taking and securing to the crown of Great Britain the island of Cape Breton and its dependencies.'

"These expenses were immense for such colonies. They were above £200,000 sterling; money first raised and advanced on their public credit.

"On the 28th of January, 1756, a message from the King came to us, to this effect—'His Majesty, being sensible of the zeal and vigour with which his faithful subjects of certain colonies in North America have exerted themselves in defence of his Majesty's just rights and possessions, recommends it to this House to take the same into their consideration, and to enable his Majesty to give them such assistance as may be a *proper reward and encouragement.*'*

"On the 3rd of February, 1756, the House came to a suitable resolution, expressed in words nearly the same as those of the message: but with the further addition, that the money then voted was an *encouragement* to the colonies to exert themselves with vigour. It will not be necessary to go through all the testimonies which your own records have given to the truth of my resolutions. I will only refer you to the places in the Journals: Vol. xxvii.—16th and 19th May, 1757. Vol. xxviii.—June 1st, 1758; April 26th and 30th, 1759; March 26th and 31st, and April 28th, 1760; January 9th and 20th, 1761. Vol. xxix.—January 22nd and 26th, 1762; March 14th and 17th, 1763.

"Sir, here is the repeated acknowledgment of Parliament, that the colonies not only gave, but gave to satiety. This nation has formerly acknowledged two things: first, that the colonies had gone beyond their abilities, Parliament having thought it necessary to reimburse them; secondly, that they had acted legally and laudably in their grants of money, and their maintenance of troops, since the compensation is expressly given as reward and encouragement. Reward is not bestowed for acts that are unlawful;

* See *ante*, note, p. 508.

and encouragement is not held out to things that deserve reprehension. My resolution, therefore, does nothing more than collect into one proposition what is scattered through your Journals. I give you nothing but your own; and you cannot refuse in the gross what you have so often acknowledged in detail. The admission of this, which will be so honourable to them and to you, will, indeed, be mortal to all the miserable stories by which the passions of the misguided people have been engaged in an unhappy system. The people heard, indeed, from the beginning of these disputes, one thing continually dinned in their ears, that reason and justice demanded, that the Americans, who paid no taxes, should be compelled to contribute. How did that fact of their paying nothing stand, when the taxing system began? When Mr. Grenville began to form his system of American revenue, he stated in this House, that the colonies were then in debt £2,600,000 sterling money; and was of opinion they would discharge that debt in four years. On this state, those untaxed people were actually subject to the payment of taxes to the amount of £650,000 a year. In fact, however, Mr. Grenville was mistaken. The funds given for sinking the debt did not prove quite so ample as both the colonies and he expected. The calculation was too sanguine: the reduction was not completed till some years after, and at different times in different colonies. However, the taxes after the war continued too great to bear any addition, with prudence or propriety; and when the burthens imposed in consequence of former requisitions were discharged, our tone became too high to resort again to requisition. No colony, since that time, ever has had any requisition whatsoever made to it.

"We see the sense of the Crown, and the sense of Parliament, on the productive nature of a *revenue by grant*. Now search the same Journals for the produce of the *revenue by imposition*. Where is it? Let us know the volume and the page. What is the gross, what is the net produce? To what service is it applied? How have you appropriated its surplus? What! can none of the many skilful index-makers, that we are now employing, find any trace of it? Well, let them, and that, rest together. But are the Journals, which say nothing of the revenue, as silent on the discontent? Oh no! a child may find it. It is the melancholy burthen and blot of every page.

"I think, then, I am, from those Journals, justified in the sixth and last resolution, which is—'That it hath been found by experience, that the manner of granting the said supplies and aids, by the said general assemblies, hath been more agreeable to the said colonies, and more beneficial and conducive to the public service, than the mode of giving and granting aids in Parliament, to be raised and paid in the said colonies.' This makes the whole of the fundamental part of the plan. The conclusion is irresistible. You cannot say, that you were driven by any necessity to an exercise of the utmost rights of legislature. You cannot assert, that you took on yourselves the task of imposing colony taxes, from the want of another legal body, that is competent to the purpose of supplying the exigencies of the state without

wounding the prejudices of the people. Neither is it true that the body so qualified, and having that competence, had neglected the duty.

"The question now, on all this accumulated matter, is, Whether you will choose to abide by a profitable experience, or a mischievous theory; whether you choose to build on imagination or fact; whether you prefer enjoyment or hope,—satisfaction in your subjects, or discontent?

"If these propositions are accepted, everything which has been made to enforce a contrary system, must, I take it for granted, fall along with it. On that ground, I have drawn the following resolution, which, when it comes to be moved, will naturally be divided in a proper manner:—'That it may be proper to repeal an act, made in the seventh year of the reign of his present Majesty, intituled, An act for granting certain duties in the British colonies and plantations in America; for allowing a drawback of the duties of customs upon the exportation from this kingdom, of coffee and cocoa-nuts of the produce of the said colonies or plantations; for discontinuing the drawbacks payable on China earthenware exported to America; and for more effectually preventing the clandestine running of goods in the said colonies and plantations. And that it may be proper to repeal an act, made in the fourteenth year of the reign of his present Majesty, intituled, An act to discontinue, in such manner, and for such time, as are therein mentioned, the landing and discharging, lading or shipping, of goods, wares, and merchandise, at the town and within the harbour of Boston, in the province of Massachusetts Bay, in North America. And that it may be proper to repeal an act, made in the 14th year of the reign of his present Majesty, intituled, An act for the impartial administration of justice, in the cases of persons questioned for any acts done by them, in the execution of the law, or for the suppression of riots and tumults, in the province of Massachusetts Bay, in New England. And that it may be proper to repeal an act, made in the 14th year of the reign of his present Majesty, intituled, An act for the better regulating the government of the province of Massachusetts Bay, in New England. And, also, that it may be proper to explain and amend an act made in the 35th year of the reign of King Henry VIII., intituled, An act for the trial of treasons committed out of the king's dominions.'

"I wish, Sir, to repeal the Boston Port bill, because (independently of the dangerous precedent of suspending the rights of the subject during the King's pleasure) it was passed, as I apprehend, with less regularity, and on more partial principles, than it ought. The corporation of Boston was not heard before it was condemned. Other towns, full as guilty as she was, have not had their ports blocked up. Even the restraining bill of the present session does not go to the length of the Boston Port act. The same ideas of prudence, which induced you not to extend equal punishment to equal guilt, even when you were punishing, induce me, who mean not to chastise, but to reconcile, to be satisfied with the punishment already partially inflicted.

"Ideas of prudence, and accommodation to circumstances, prevent you from taking away the charters of Connecticut and Rhode Island, as you have

taken away that of Massachusetts colony,* though the Crown has far less power in the two former provinces than it enjoyed in the latter; and though the abuses have been full as great, and as flagrant, in the exempted as in the punished. The same reasons of prudence and accommodation have weight with me in restoring the charter of Massachusetts Bay. Besides, Sir, the act which changes the charter of Massachusetts is in many particulars so exceptionable, that if I did not wish absolutely to repeal, I would by all means desire to alter it; as several of its provisions tend to the subversion of all public and private justice. Such, among others, is the power in the governor to change the sheriff at his pleasure; and to make a new returning officer for every special cause. It is shameful to behold such a regulation standing among English laws.

"The act for bringing persons accused of committing murder under the orders of government to England for trial, is but temporary.† That act has calculated the probable duration of our quarrel with the colonies; and is accommodated to that supposed duration. I would hasten the happy moment of reconciliation; and, therefore, must, on my principle, get rid of that most justly obnoxious act.

"The act of Henry VIII. for the trial of treasons,‡ I do not mean to take away, but to confine it to its proper bounds and original intention; to make it expressly for trial of treasons (and the greatest treasons may be committed) in places where the jurisdiction of the Crown does not extend.

"Having guarded the privileges of local legislature, I would next secure to the colonies a fair and unbiassed judicature: for which purpose, Sir, I propose the following resolution:—'That, from the time when the general assembly or general court of any colony or plantation in North America shall have appointed by act of assembly, duly confirmed, a settled salary to the offices of the chief justice and other judges of the superior court, it may be proper that the said chief justice and other judges of the superior courts of such colony, shall hold his and their office and offices during their good behaviour; and shall not be removed therefrom, but when the said removal shall be adjudged by his Majesty in council, upon a hearing on complaint from the general assembly, or on a complaint from the governor, or council, or the house of representatives severally, of the colony in which the said chief justice and other judges have exercised the said offices.'

* The charter of Massachusetts, pre-eminent for the liberality of its principles, was destroyed by the act of May 1774, "for regulating the government of Massachusetts Bay." By this most oppressive act, the appointment of the council, which by the ancient constitution had been elected by the general court, was vested in the Crown; the governor of the province for the time being, was authorised to act as a justice of the peace, and to appoint, at his own pleasure, all the civil officers, such as the provost-marshal and sheriffs; and to the latter officers was delegated the nomination of juries, who had previously been named by the freeholders and inhabitants of the different towns in the province.

† See *ante*, note, p. 517. ‡ See *ante*, note, p. 497.

"The next resolution relates to the courts of admiralty. It is this:—'That it may be proper to regulate the courts of admiralty or vice-admiralty, authorised by the 15th chap. of the 4th of George III. in such a manner as to make the same more commodious to those who sue or are sued, in the said courts, and to provide for the more decent maintenance of the judges in the same.'

"These courts I do not wish to take away: they are in themselves proper establishments. This court is one of the capital securities of the Act of Navigation. The extent of its jurisdiction, indeed, has been increased; but this is altogether as proper, and is, indeed, on many accounts, more eligible, where new powers were wanted, than a court absolutely new. But courts incommodiously situated, in effect, deny justice; and a court, partaking in the fruits of its own condemnation, is a robber. The congress complain, and complain justly, of this grievance.*

"These are the three consequential propositions. I have thought of two or three more; but they came rather too near detail, and to the province of executive government, which I wish Parliament always to superintend, never to assume. If the first six are granted, congruity will carry the latter three. If not, the things that remain unrepealed will be, I hope, rather unseemly incumbrances on the building, than very materially detrimental to its strength and stability.

"Here, Sir, I should close, but that I plainly perceive some objections remain which I ought, if possible, to remove. The first will be, that, in resorting to the doctrine of our ancestors, as contained in the preamble to the Chester act, I prove too much; that the grievance from a want of representation stated in that preamble, goes to the whole of legislation as well as to taxation. And that the colonies grounding themselves upon that doctrine, will apply it to all parts of legislative authority.

"To this objection, with all possible deference and humility, and wishing as little as any man living to impair the smallest particle of our supreme authority, I answer, that the words are the words of Parliament, and not mine; and, that all false and inconclusive inferences, drawn from them, are not mine; for I heartily disclaim any such inference. I have chosen the words of an act of parliament, which Mr. Grenville, surely a tolerably zealous and very judicious advocate for the sovereignty of Parliament, formerly moved to have read at your table, in confirmation of his tenets. It is true, that Lord Chatham considered these preambles as declaring strongly in favour of his opinions.† He was a no less powerful advocate for the privileges of the Americans. Ought I not from hence to presume, that these preambles are as favourable as possible to both, when properly understood;

* The Solicitor-general informed Mr. Burke, when the resolutions were separately moved, that the grievance of the judges partaking of the profits of the seizure had been redressed by office; accordingly, the resolution was amended.

† See Lord Chatham's speech, *ante*, pp. 27, 28.

favourable both to the rights of parliament, and to the privilege of the dependencies of this Crown? But, Sir, the object of grievance in my resolution, I have not taken from the Chester, but from the Durham act, which confines the hardship of want of representation to the case of subsidies; and which, therefore, falls in exactly with the case of the colonies. But whether the unrepresented counties were *de jure*, or *de facto*, bound, the preambles do not accurately distinguish; nor, indeed, was it necessary; for whether *de jure* or *de facto*, the legislature thought the exercise of the power of taxing, as of right, or as of fact without right, equally a grievance, and equally oppressive.

"I do not know that the colonies have, in any general way, or in any cool hour, gone much beyond the demand of immunity in relation to taxes. It is not fair to judge of the temper or dispositions of any man, or any set of men, when they are composed and at rest, from their conduct, or their expressions, in a state of disturbance and irritation. It is, besides, a very great mistake to imagine, that mankind follow up practically any speculative principle, either of government or of freedom, as far as it will go in argument and logical illation. We Englishmen stop very short of the principles upon which we support any given part of our constitution; or even the whole of it together. I could easily, if I had not already tired you, give you very striking and convincing instances of it. This is nothing but what is natural and proper. All government, indeed every human benefit and enjoyment, every virtue, and every prudent act, is founded on compromise and barter. We balance inconveniences; we give and take; we remit some rights, that we may enjoy others; and we choose rather to be happy citizens, than subtle disputants. As we must give away some natural liberty, to enjoy civil advantages; so we must sacrifice some civil liberties, for the advantages to be derived from the communion and fellowship of a great empire. But in all fair dealings the thing bought must bear some proportion to the purchase paid. None will barter away the immediate jewel of his soul. Though a great house is apt to make slaves haughty, yet it is purchasing a part of the artificial importance of a great empire too dear, to pay for it all the essential rights and all the intrinsic dignity of human nature. None of us who would not risk his life, rather than fall under a government purely arbitrary. But, although there are some amongst us who think our constitution wants many improvements, to make it a complete system of liberty, perhaps none who are of that opinion would think it right to aim at such improvement, by disturbing his country, and risking everything that is dear to him. In every arduous enterprise, we consider what we are to lose, as well as what we are to gain; and the more and better stake of liberty every people possess, the less they will hazard in a vain attempt to make it more. These are the cords of man. Man acts from adequate motives relative to his interest; and not on metaphysical speculations. Aristotle, the great master of reasoning, cautions us, and with great weight and propriety, against this species of delusive geometrical accuracy in moral arguments, as the most fallacious of all sophistry.

"The Americans will have no interest contrary to the grandeur and glory of England, when they are not oppressed by the weight of it; and they will rather be inclined to respect the acts of a superintending legislature, when they see them the acts of that power, which is itself the security, not the rival, of their secondary importance. In this assurance, my mind most perfectly acquiesces; and I confess, I feel not the least alarm, from the discontents which are to arise, from putting people at their ease; nor do I apprehend the destruction of this empire, from giving, by an act of free grace and indulgence, to two millions of my fellow-citizens, some share of those rights, upon which I have always been taught to value myself.

"It is said, indeed, that this power of granting, vested in American assemblies, would dissolve the unity of the empire; which was preserved entire, although Wales, and Chester, and Durham, were added to it. Truly, Mr. Speaker, I do not know what this unity means; nor has it ever been heard of, that I know, in the constitutional policy of this country. The very idea of subordination of parts, excludes this notion of simple and undivided unity. England is the head; but she is not the head and the members too. Ireland has ever had from the beginning a separate, but not an independent, legislature,* which, far from distracting, promoted the union of the whole. Everything was sweetly and harmoniously disposed through both islands for the conservation of English dominion, and the communication of English liberties. I do not see that the same principles might not be carried into twenty islands, and with the same good effect. This is my model with regard to America, as far as the internal circumstances of the two countries are the same. I know no other unity of this empire, than I can draw from its example during these periods, when it seemed to my poor understanding more united than it is now, or than it is likely to be by the present methods.

"But since I speak of these methods, I recollect, Mr. Speaker, almost too late, that I promised, before I finished, to say something of the proposition of the noble lord (North) on the floor, which has been so lately received, and stands on your Journals. I must be deeply concerned, whenever it is my misfortune to continue a difference with the majority of this House. But as the reasons for that difference are my apology for thus troubling you, suffer me to state them in a very few words; I shall compress them into as small a body as I possibly can, having already debated that matter at large, when the question was before the committee.

"First, then, I cannot admit that proposition of a ransom by auction; because it is a mere project. It is a thing new; unheard of; supported by no experience; justified by no analogy; without example of our ancestors, or root in the constitution.

"It is neither regular parliamentary taxation, nor colony grant. *Experimentum in corpore vili*, is a good rule, which will ever make me adverse to any

* The union of the Parliaments of Great Britain and Ireland did not take place till 1801.

trial of experiments on what is certainly the most valuable of all subjects—the peace of this empire.

"Secondly, it is an experiment which must be fatal in the end to our constitution. For what is it but a scheme for taxing the colonies in the antechamber of the noble lord and his successors? To settle the quotas and proportions in this House, is clearly impossible. You, Sir, may flatter yourself, you shall sit a state auctioneer, with your hammer in your hand, and knock down to each colony as it bids. But to settle (on the plan laid down by the noble lord) the true proportional payment for four or five and twenty governments, according to the absolute and the relative wealth of each, and according to the British proportion of wealth and burthen, is a wild and chimerical notion. This new taxation must therefore come in by the back-door of the constitution. Each quota must be brought to this House, ready formed; you can neither add nor alter. You must register it. You can do nothing further. For on what grounds can you deliberate either before or after the proposition? You cannot hear the counsel for all these provinces quarrelling each on its own quantity of payment, and its proportion to others. If you should attempt it, the committee of provincial ways and means, or by whatever other name it will delight to be called, must swallow up all the time of Parliament.

"Thirdly, it does not give satisfaction to the complaint of the colonies. They complain, that they are taxed without their consent; you answer, that you will fix the sum at which they shall be taxed. That is, you give them the very grievances for the remedy. You tell them, indeed, that you will leave the mode to themselves. I really beg pardon; it gives me pain to mention it; but you must be sensible that you will not perform this part of the compact. For, suppose the colonies were to lay the duties which furnished their contingent, upon the importation of your manufactures; you know you would never suffer such a tax to be laid. You know, too, that you would not suffer many other modes of taxation. So that, when you come to explain yourself, it will be found, that you will neither leave to themselves the quantum nor the mode; nor, indeed, anything. The whole is delusion from one end to the other.

"Fourthly, this method of ransom by auction, unless it be *universally* accepted, will plunge you into great and inextricable difficulties. In what year of our Lord are the proportions of payments to be settled? To say nothing of the impossibility that colony agents should have general powers of taxing the colonies at their discretion; consider, I implore you, that the communication by special messages, and orders between these agents and their constituents, on each variation of the case, when the parties come to contend together, and to dispute on their relative proportions, will be a matter of delay, perplexity, and confusion, that never can have an end.

"If all the colonies do not appear at the outcry, what is the condition of those assemblies, who offer, by themselves or their agents, to tax themselves up to your ideas of their proportion? The refractory colonies, who refuse

all composition, will remain taxed only to your old impositions, which, however grievous in principle, are trifling as to production. The obedient colonies in this scheme are heavily taxed; the refractory remain unburthened. What will you do? Will you lay new and heavier taxes by Parliament on the disobedient? Pray consider in what way you can do it. You are perfectly convinced that in the way of taxing, you can do nothing but at the ports. Now suppose it is Virginia that refuses to appear at your auction, while Maryland and North Carolina bid handsomely for their ransom, and are taxed to your quota: how will you put these colonies on a par? Will you tax the tobacco of Virginia? If you do, you give its death-wound to your English revenue at home, and to one of the very greatest articles of your own foreign trade. If you tax the import of that rebellious colony, what do you tax but your own manufactures, or the goods of some other obedient, and already well-taxed colony? Who has said one word on this labyrinth of detail, which bewilders you more and more as you enter into it? Who has presented, who can present you, with a clue, to lead you out of it? I think, Sir, it is impossible, that you should not recollect that the colony bounds are so implicated in one another (you know it by your other experiments in the bill for prohibiting the New England fishery) that you can lay no possible restraints on almost any of them which may not be presently eluded, if you do not confound the innocent with the guilty, and burthen those whom upon every principle you ought to exonerate. He must be grossly ignorant of America, who thinks, that, without falling into this confusion of all rules of equity and policy, you can restrain any single colony, especially Virginia and Maryland, the central, and most important of them all.

"Let it also be considered, that, either in the present confusion you settle a permanent contingent, which will and must be trifling; and then you have no effectual revenue; or you change the quota at every exigency; and then on every new repartition you will have a new quarrel.

"Reflect, besides, that when you have fixed a quota for every colony, you have not provided for prompt and punctual payment. Suppose one, two, five, ten years' arrears. You cannot issue a treasury extent against the failing colony. You must make new Boston Port bills, new restraining laws, new acts for dragging men to England for trial. You must send out new fleets, new armies. All is to begin again. From this day forward the empire is never to know an hour's tranquillity. An intestine fire will be kept alive in the bowels of the colonies, which one time or other must consume this whole empire. I allow, indeed, that the empire of Germany raises her revenue and her troops by quotas and contingents; but the revenue of the empire, and the army of the empire, is the worst revenue, and the worst army, in the world.

"Instead of a standing revenue, you will therefore have a perpetual quarrel. Indeed, the noble lord, who proposed this project of a ransom by auction, seemed himself to be of that opinion. His project was rather designed for breaking the union of the colonies, than for establishing a revenue. He

confessed, he apprehended that his proposal would not be to their taste. I say, this scheme of disunion seems to be at the bottom of the project; for I will not suspect that the noble lord meant nothing but merely to delude the nation by an airy phantom which he never intended to realise. But, whatever his views may be, as I propose the peace and union of the colonies as the very foundation of my plan, it cannot accord with one whose foundation is perpetual discord.

"Compare the two. This I offer to give you is plain and simple; the other, full of perplexed and intricate mazes. This is mild; that harsh. This is found by experience effectual for its purposes; the other is a new project. This is universal; the other calculated for certain colonies only. This is immediate in its conciliatory operation; the other remote, contingent, full of hazard. Mine is what becomes the dignity of a ruling people; gratuitous, unconditional, and not held out as matter of bargain and sale. I have done my duty in proposing it to you. I have, indeed, tired you by a long discourse; but this is the misfortune of those to whose influence nothing will be conceded, and who must win every inch of their ground by argument. You have heard me with goodness. May you decide with wisdom! For my part, I feel my mind greatly disburthened by what I have done to-day. I have been the less fearful of trying your patience, because, on this subject, I mean to spare it altogether in future. I have this comfort, that, in every stage of the American affairs, I have steadily opposed the measures that have produced the confusion, and may bring on the destruction of this empire. I now go so far as to risk a proposal of my own. If I cannot give peace to my country, I give it to my conscience.

"But what (says the financier) is peace to us, without money? Your plan gives us no revenue. No! But it does—for it secures to the subject the power of refusal; the first of all revenues. Experience is a cheat, and fact a liar, if this power in the subject of proportioning his grant, or of not granting at all, has not been found the richest mine of revenue ever discovered by the skill or by the fortune of man. It does not, indeed, vote you £152,752 11*s*. $2\frac{3}{4}$*d*., nor any other paltry limited sum. But it gives the strong box itself, the fund, the bank, from whence only revenues can arise amongst a people sensible of freedom: *Posita luditur arca.* Cannot you, in England; cannot you, at this time of day; cannot you, a House of Commons, trust to the principle which has raised so mighty a revenue, and accumulated a debt of near 140 millions in this country? Is this principle to be true in England, and false everywhere else? Is it not true in Ireland? Has it not hitherto been true in the colonies? Why should you presume, that in any country, a body duly constituted for any function, will neglect to perform its duty, and abdicate its trust? Such a presumption would go against all governments, in all modes. But, in truth, this dread of penury of supply, from a free assembly, has no foundation in nature. For, first observe, that besides the desire which all men have naturally of supporting the honour of their own government; that sense of dignity, and that security to property,

which ever attends freedom, has a tendency to increase the stock of the free community. Most may be taken where most is accumulated. And what is the soil or climate where experience has not uniformly proved, that the voluntary flow of heaped-up plenty, bursting from the weight of its own rich luxuriance, has ever run with a more copious stream of revenue, than could be squeezed from the dry husks of oppressed indigence, by the straining of all the politic machinery in the world.

"Next, we know that parties must ever exist in a free country. We know, too, that the emulations of such parties, their contradictions, their reciprocal necessities, their hopes and their fears, must send them all, in their turns, to him that holds the balance of the state. The parties are the gamesters; but government keeps the table, and is sure to be the winner in the end. When this game is played, I really think it is more to be feared, that the people will be exhausted, than that government will not be supplied. Whereas, whatever is got by acts of absolute power ill obeyed, because odious, or by contracts ill kept, because constrained; will be narrow, feeble, uncertain, and precarious. 'Ease would retract vows made in pain, as violent and void.'

"I, for one, protest against compounding our demands: I declare against compounding, for a poor limited sum, the immense, overgrowing, eternal debt, which is due to generous government from protected freedom. And so may I speed in the great object I propose to you, as I think it would not only be an act of injustice, but would be the worst economy in the world, to compel the colonies to a sum certain, either in the way of ransom, or in the way of compulsory compact.

"But to clear up my ideas on this subject: a revenue from America transmitted hither—do not delude yourselves—you never can receive it. No, not a shilling. We have experience that from remote countries it is not to be expected. If, when you attempted to extract revenue from Bengal, you were obliged to return in loan what you had taken in imposition; what can you expect from North America? for, certainly, if ever there was a country qualified to produce wealth, it is India; or an institution fit for the transmission, it is the East India Company. America has none of these aptitudes. If America gives you taxable objects, on which you lay your duties here, and gives you, at the same time, a surplus by a foreign sale of her commodities, to pay the duties on these objects which you tax at home, she has performed her part to the British revenue. But with regard to her own internal establishments, she may, I doubt not she will, contribute in moderation. I say, in moderation; for she ought not to be permitted to exhaust herself. She ought to be reserved to a war, the weight of which, with the enemies that we are most likely to have, must be considerable in her quarter of the globe. There she may serve you, and serve you essentially.

"For that service,—for all service, whether of revenue, trade, or empire, my trust is in her interest in the British constitution. My hold of the colonies is in the close affection which grows from common names, from

kindred blood, from similar privileges, and equal protection. These are ties, which, though light as air, are as strong as links of iron. Let the colonies always keep the idea of their civil rights associated with your government;—they will cling and grapple to you; and no force under heaven will be of power to tear them from their allegiance. But let it be once understood, that your government may be one thing, and their privileges another; that these two things may exist without any mutual relation; the cement is gone, the cohesion is loosened, and everything hastens to decay and dissolution. As long as you have the wisdom to keep the sovereign authority of this country as the sanctuary of liberty, the sacred temple consecrated to our common faith, wherever the chosen race and sons of England worship freedom, they will turn their faces towards you. The more they multiply, the more friends you will have; the more ardently they love liberty, the more perfect will be their obedience. Slavery they can have anywhere. It is a weed that grows in every soil. They may have it from Spain, they may have it from Prussia. But until you become lost to all feeling of your true interest and your natural dignity, freedom they can have from none but you. This is the commodity of price, of which you have the monopoly. This is the true act of navigation, which binds to you the commerce of the colonies, and through them secures to you the wealth of the world. Deny them this participation of freedom, and you break that sole bond, which originally made, and must still preserve, the unity of the empire. Do not entertain so weak an imagination, as that your registers and your bonds, your affidavits and your sufferances, your cockets and your clearances, are what form the great securities of your commerce. Do not dream that your letters of office, and your instructions, and your suspending clauses, are the things that hold together the great contexture of this mysterious whole. These things do not make your government. Dead instruments, passive tools, as they are, it is the spirit of the English communion, that gives all their life and efficacy to them. It is the spirit of the English constitution, which, infused through the mighty mass, pervades, feeds, unites, invigorates, vivifies, every part of the empire, even down to the minutest member.

"Is it not the same virtue which does everything for us here in England? Do you imagine, then, that it is the Land Tax Act which raises your revenue? that it is the annual vote in the committee of supply, which gives you your army? or, that it is the Mutiny Bill which inspires it with bravery and discipline? No!—surely no! It is the love of the people; it is their attachment to their government, from the sense of the deep stake they have in such a glorious institution, which gives you your army and your navy, and infuses into both that literal obedience, without which your army would be a base rabble, and your navy nothing but rotten timber.

"All this, I know well enough, will sound wild and chimerical to the profane herd of those vulgar and mechanical politicians, who have no place among us; a sort of people who think that nothing exists but what is gross and material; and who, therefore, far from being qualified to be directors of

the great movement of empire, are not fit to turn a wheel in the machine. But to men truly initiated and rightly taught, these ruling and master principles, which, in the opinion of such men as I have mentioned, have no substantial existence, are in truth everything, and all in all. Magnanimity in politics is not seldom the truest wisdom; and a great empire and little minds go ill together. If we are conscious of our situation, and glow with zeal to fill our places as becomes our station and ourselves, we ought to auspicate all our public proceedings on America with the old warning of the church, *Sursum corda!* We ought to elevate our minds to the greatness of that trust to which the order of Providence has called us. By adverting to the dignity of this high calling, our ancestors have turned a savage wilderness into a glorious empire; and have made the most extensive, and the only honourable conquests; not by destroying, but by promoting, the wealth, the number, the happiness of the human race. Let us get an American revenue as we have got an American empire. English privileges have made it all that it is; English privileges alone will make it all it can be.

"In full confidence of this unalterable truth, I now (*quod felix faustumque sit*) lay the first stone of the temple of peace; and I move you:—

"'1. That the colonies and plantations of Great Britain in North America, consisting of fourteen separate governments, and containing two millions and upwards of free inhabitants, have not had the liberty and privilege of electing and sending any knights and burgesses, or others, to represent them in the high court of Parliament.

"'2. That the said colonies and plantations have been made liable to, and bounden by, several subsidies, payments, rates, and taxes, given and granted by Parliament; though the said colonies and plantations have not their knights and burgesses, in the said high court of Parliament, of their own election, to represent the condition of their country, *by lack whereof, they have been oftentimes touched and grieved by subsidies given, granted, and assented to, in the said court, in a manner prejudicial to the commonwealth, quietness, rest, and peace, of the subjects inhabiting within the same.**

"'3. That, from the distance of the said colonies, and from other circumstances, no method hath hitherto been devised for procuring a representation in Parliament for the said colonies.

"'4. That each of the said colonies hath within itself a body, chosen, in part or in the whole, by the freemen, freeholders, or other free inhabitants thereof, commonly called the general assembly, or general court; with powers legally to raise, levy, and assess, according to the several usage of such colonies, duties and taxes towards defraying all sorts of public services.

"'5. That the said general assemblies, general courts, or other bodies, legally qualified as aforesaid, have at sundry times freely granted several large subsidies and public aids for his Majesty's service, according to their

* The words in italics were, by an amendment that was carried, left out of the motion.

abilities, when required thereto by letter from one of his Majesty's principal secretaries of state; and that their right to grant the same, and their cheerfulness and sufficiency in the said grants, have been at sundry times acknowledged by Parliament.

"'6. That it hath been found by experience, that the manner of granting the said supplies and aids, by the said general assemblies, hath been more agreeable to the inhabitants of the said colonies, and more beneficial and conducive to the public service, than the mode of giving and granting aids and subsidies in Parliament to be raised and paid in the said colonies.

"'7. That it may be proper to repeal an act, made in the seventh year of the reign of his present Majesty, intituled, An Act for granting certain duties in the British colonies and plantations in America; for allowing a drawback of the duties of customs, upon the exportation from this kingdom, of coffee and cocoa-nuts, of the produce of the said colonies or plantations; for discontinuing the drawbacks payable on China earthenware exported to America; and for more effectually preventing the clandestine running of goods in the said colonies and plantations.

"'8. That it may be proper to repeal an act, made in the fourteenth year of the reign of his present Majesty, intituled, An Act to discontinue, in such manner, and for such time, as are therein mentioned, the landing and discharging, lading or shipping of goods, wares and merchandise, at the town, and within the harbour, of Boston, in the province of Massachusetts Bay, in North America.

"'9. That it may be proper to repeal an act, made in the fourteenth year of the reign of his present Majesty, intituled, An Act for the impartial administration of justice, in cases of persons questioned for any acts done by them in the execution of the law, or for the suppression of riots and tumults, in the province of Massachusetts Bay, in New England.

"'10. That it is proper to repeal an act, made in the fourteenth year of the reign of his present Majesty, intituled, An Act for the better regulating the government of the province of Massachusetts Bay, New England.

"'11. That it is proper to explain and amend an act, made in the thirty-fifth year of the reign of King Henry VIII., intituled, An Act for the trial of treasons committed out of the King's dominions.

"'12. That, from the time when the general assembly, or general court, of any colony or plantation, in North America, shall have appointed, by act of assembly duly confirmed, a settled salary to the offices of the Chief Justice and judges of the superior courts, it may be proper that the said Chief Justice and other judges of the superior courts of such colony shall hold his and their office and offices during their good behaviour; and shall not be removed therefrom, but when the said removal shall be adjudged by his Majesty in Council, upon a hearing on complaint from the general assembly, or on a complaint from the Governor, or Council, or the House of Representatives, severally, of the colony in which the said Chief Justice and other judges have exercised the said office.

"'13. That it may be proper to regulate the Courts of Admiralty, or Vice-admiralty, authorised by the 15th chapter of the 4th of George III., in such a manner as to make the same more commodious to those who sue, or are sued, in the said courts; *and to provide for the more decent maintenance of the judges of the same.*'"

None of these resolutions were carried; the 1st, 2nd, 3rd, 4th, and 13th being lost on a motion for the previous question, and the rest negatived.

Speech on moving for leave to bring in a bill for a General Reform in the public economy, 11th February, 1780.

The rapid increase of the national debt during the course of the American war, and the vast expense with which that contest was attended, had a natural tendency to direct public attention to the expenditure of Government, with a view to enforce the strictest economy. Previous to the Christmas recess, in 1779, the Duke of Richmond, in the Upper, and Mr. Burke, in the Lower House, adverted to the profuse expenditure of the public money, and the necessity of retrenchment; and Mr. Burke gave notice of his intention, on the re-assembling of Parliament, to propose certain important resolutions in the way of reform.

During the vacation, the wishes of the country on the subject were plainly manifested, by the holding of numerous county meetings (those in Yorkshire and Middlesex being most prominent,) and by the multitude of petitions to Parliament, complaining of the burdens to which the nation was subject, arising from the expenses of the war, the undue influence of the Crown, acquired by the increase of pensions and places, and the prodigality exhibited in the public expenditure, and earnestly praying for investigation and redress. On the 11th February, 1780, in pursuance of his notice, Mr. Burke brought forward in the following speech, which is regarded as one of his greatest efforts, his plan of reform, confining himself to what he called the omnipotence of economy, its power to bind up and close the bleeding arteries of profusion, and to invigorate the natural constitution of the state by reducing the fatal and overgrown influence of the Crown.

His proposition was to bring in five bills for the abolition of useless places, and the better regulation of his Majesty's civil establishment; for the sale of forest and other crown lands; and for applying the produce thereof to the public service; and for more perfectly uniting to the Crown the principality of Wales, and the county palatine of Chester; the duchy and county palatine of Lancaster; and the duchy of Cornwall.

The opposition had little reason to expect that they could carry these bills, but their principal object was attained in the popularity they acquired by the attempt.

"Mr. Speaker,—

"I rise in acquittal of my engagement to the House, in obedience to the strong and just requisition of my constituents, and, I am persuaded, in conformity to the unanimous wishes of the whole nation, to submit to the wisdom of parliament, 'A plan of reform in the constitution of several parts of the public economy.'

"I have endeavoured that this plan should include in its execution a considerable reduction of improper expense; that it should effect a conversion of unprofitable titles into a productive estate; that it should lead to, and indeed almost compel, a provident administration of such sums of public money as must remain under discretionary trusts; that it should render the incurring debts on the civil establishment (which must ultimately affect national strength and national credit) so very difficult, as to become next to impracticable.

"But what, I confess, was uppermost with me, what I bent the whole force of my mind to, was the reduction of that corrupt influence, which is itself the perennial spring of all prodigality and of all disorder; which loads us more than millions of debt, which takes away vigour from our arms, wisdom from our councils, and every shadow of authority and credit from the most venerable parts of our constitution.

"Sir, I assure you, very solemnly, and with a very clear conscience, that nothing in the world has led me to such an undertaking, but my zeal for the honour of this House, and the settled, habitual, systematic affection I bear to the cause, and to the principles of government.

"I enter perfectly into the nature and consequences of my attempt; and I advance to it with a tremor that shakes me to the inmost fibre of my frame. I feel, that I engage in a business in itself most ungracious; totally wide of the course of prudent conduct; and I really think, the most completely adverse that can be imagined, to the natural turn and temper of my own mind. I know, that all parsimony is of a quality approaching to unkindness; and that (on some person or other) every reform must operate as a sort of punishment. Indeed the whole class of the severe and restrictive virtues are at a market almost too high for humanity. What is worse, there are very few of those virtues which are not capable of being imitated, and even outdone in many of their most striking effects, by the worst of vices. Malignity and envy will carve much more deeply, and finish much more sharply, in the work of retrenchment, than frugality and providence. I do not, therefore, wonder that gentlemen have kept away from such a task, as well from good nature as from prudence. Private feeling might, indeed, be overborne by legislative reason; and a man of a long-sighted and strong-nerved humanity, might bring himself, not so much to consider from whom he takes a superfluous enjoyment, as for whom in the end he may preserve the absolute necessaries of life.

"But it is much more easy to reconcile this measure to humanity, than to bring it to any agreement with prudence. I do not mean that little, selfish,

pitiful, bastard thing, which sometimes goes by the name of a family in which it is not legitimate, and to which it is a disgrace—I mean even that public and enlarged prudence, which, apprehensive of being disabled from rendering acceptable services to the world, withholds itself from those that are invidious. Gentlemen who are, with me, verging towards the decline of life, and are apt to form their ideas of kings from kings of former times, might dread the anger of a reigning prince;—they who are more provident of the future, or by being young are more interested in it, might tremble at the resentment of the successor: they might see a long, dull, dreary, unvaried vista of despair and exclusion, for half a century, before them. This is no pleasant prospect at the outset of a political journey.

"Besides, Sir, the private enemies to be made in all attempts of this kind are innumerable; and their enmity will be the more bitter, and the more dangerous too, because a sense of dignity will oblige them to conceal the cause of their resentment. Very few men of great families and extensive connexions, but will feel the smart of a cutting reform, in some close relation, some bosom friend, some pleasant acquaintance, some dear protected dependant. Emolument is taken from some, patronage from others, objects of pursuit from all. Men, forced into an involuntary independence, will abhor the authors of a blessing which in their eyes has so very near a resemblance to a curse. When officers are removed, and the offices remain, you may set the gratitude of some against the anger of others; you may oppose the friends you oblige against the enemies you provoke: but services of the present sort create no attachments. The individual good felt in a public benefit is comparatively so small, and comes round through such an involved labyrinth of intricate and tedious revolutions, whilst a present personal detriment is so heavy where it falls, and so instant in its operation, that the cold commendation of a public advantage never was, and never will be, a match for the quick sensibility of a private loss: and you may depend upon it, Sir, that when many people have an interest in railing, sooner or later, they will bring a considerable degree of unpopularity upon any measure. So that, for the present at least, the reformation will operate against the reformers; and revenge (as against them) will produce all the effects of corruption.

"This, Sir, is almost always the case, where the plan has complete success. But how stands the matter in the mere attempt? Nothing, you know, is more common, than for men to wish, and call loudly too, for a reformation, who, when it arrives, do by no means like the severity of its aspect. Reformation is one of those pieces which must be put at some distance in order to please. Its greatest favourers love it better in the abstract than in the substance. When any old prejudice of their own, or any interest that they value, is touched, they become scrupulous, they become captious, and every man has his separate exception. Some pluck out the black hairs, some the grey; one point must be given up to one, another point must be yielded to another; nothing is suffered to prevail upon its own principle: the whole is so frittered down and disjointed, that scarcely a trace of the original scheme

remains! Thus, between the resistance of power, and the unsystematical process of popularity, the undertaker and the undertaking are both exposed, and the poor reformer is hissed off the stage, both by friends and foes.

"Observe, Sir, that the apology for my undertaking (an apology which, though long, is no longer than necessary) is not grounded on my want of the fullest sense of the difficult and invidious nature of the task I undertake. I risk odium if I succeed, and contempt if I fail. My excuse must rest in mine and your conviction of the absolute urgent necessity there is, that something of the kind should be done. If there is any sacrifice to be made, either of estimation or of fortune, the smallest is the best. Commanders-in-chief are not to be put upon the forlorn hope. But indeed it is necessary that the attempt should be made. It is necessary from our own political circumstances; it is necessary from the operations of the enemy; it is necessary from the demands of the people; whose desires, when they do not militate with the stable and eternal rules of justice and reason (rules which are above us and above them), ought to be as a law to a House of Commons.

"As to our circumstances, I do not mean to aggravate the difficulties of them, by the strength of any colouring whatsoever. On the contrary, I observe, and observe with pleasure, that our affairs rather wear a more promising aspect than they did on the opening of the session. We have had some leading successes.* But those who rate them at the highest (higher, a great deal, than I dare to do) are of opinion, that, upon the ground of such advantages, we cannot at this time hope to make any treaty of peace, which would not be ruinous and completely disgraceful. In such an anxious state of things, if dawnings of success serve to animate our diligence, they are good; if they tend to increase our presumption, they are worse than defeats. The state of our affairs shall then be as promising as any one may choose to conceive it: it is, however, but promising. We must recollect, that with but half of our natural strength, we are at war against confederated powers who have singly threatened us with ruin:† we must recollect, that whilst we are left naked on one side, our other flank is uncovered by any alliance; that whilst we are weighing and balancing our successes against our losses, we are accumulating debt to the amount of at least fourteen millions in the year. That loss is certain.

"I have no wish to deny, that our successes are as brilliant as any one

* Among the most important might be reckoned the capture of Charlestown, which, after a month's siege, had surrendered to the English army under Sir Henry Clinton. On this occasion a large quantity of ordnance and ammunition fell into the hands of the English, besides 6,600 prisoners; and several American frigates were taken or destroyed in the harbour.

† A treaty of alliance and commerce, between France and the United States, had been concluded in 1778, while the ports of Spain were open to the Americans both for trade and the disposal of their prizes; and most of the other European powers, jealous of the naval superiority of Great Britain, united in an "armed neutrality," and were only awaiting a favourable opportunity for joining her enemies.

chooses to make them; our resources too may, for me, be as unfathomable as they are represented. Indeed, they are just whatever the people possess, and will submit to pay. Taxing is an easy business. Any projector can contrive new impositions; any bungler can add to the old. But is it altogegether wise to have no other bounds to your impositions than the patience of those who are to bear them?

"All I claim upon the subject of your resources is this, that they are not likely to be *increased* by wasting them. I think I shall be permitted to assume, that a system of frugality will not *lessen* your riches, whatever they may be. I believe it will not be hotly disputed, that those resources which lie heavy on the subject ought not to be objects of *preference;* that they ought not to be the *very first choice* to an honest representative of the people.

"This is all, Sir, that I shall say upon our circumstances and our resources. I mean to say a little more on the operations of the enemy, because this matter seems to me very natural in our present deliberation. When I look to the other side of the water, I cannot help recollecting what Pyrrhus said on reconnoitring the Roman camp, 'These barbarians have nothing barbarous in their discipline.' When I look, as I have pretty carefully looked, into the proceedings of the French king, I am sorry to say it, I see nothing of the character and genius of arbitrary finance; none of the bold frauds of bankrupt power; none of the wild struggles and plunges of despotism in distress; no lopping off from the capital of debt; no suspension of interest; no robbery under the name of loan; no raising the value, no debasing the substance of the coin. I see neither Louis XIV. nor Louis XV. On the contrary, I behold with astonishment, rising before me, by the very hands of arbitrary power, and in the very midst of war and confusion, a regular, methodical system of public credit: I behold a fabric laid on the natural and solid foundations of trust and confidence among men, and rising, by fair gradations, order over order, according to the just rules of symmetry and art.* What a reverse of things! Principle, method, regularity, economy, frugality, justice to individuals, and care of the people, are the resources with which

* France at this time, under the administration of Neckar, was directing the greatest attention to public economy. In his edict of November 1779, Louis XVI. had declared that he had brought his fixed and certain expenses (in which were reckoned an annual sinking of debt) to an equilibrium with his receipts; and in 1780 he issued further edicts for curtailing the expenses of the Royal Household and the abolition of many useless offices. Neckar was the first French Minister of Finance who introduced the *Compte Rendu*, or statement of the public revenue and expenditure. This he first published in the year 1779. As he depended on public credit to carry out his system (for, although he enforced a rigid economy, yet he could not make the revenue equal the expenditure without having recourse to loans) publicity was to him indispensable; but this necessarily rendered him odious to the nobles and the courtiers, who saw a check put to the wonted liberalities of the King, and the deathblow to royal pensions and prodigal favouritism.

France makes war upon Great Britain. God avert the omen! But if we should see any genius in war and politics arise in France to second what is done in the bureau!—I turn my eyes from the consequences.

"The noble lord in the blue ribbon,* last year, treated all this with contempt. He never could conceive it possible that the French minister of finance could go through that year with a loan of but £1,700,000, and that he should be able to fund that loan without any tax. The second year, however, opens the very same scene. A small loan, a loan of no more than £2,500,000, is to carry our enemies through the service of this year also. No tax is raised to fund that debt; no tax is raised for the current services. I am credibly informed that there is no anticipation whatsoever.

"Compensations are correctly made. Old debts continue to be sunk as in the time of profound peace. Even payments which their treasury had been authorised to suspend during the time of war, are not suspended.

"A general reform, executed through every department of the revenue, creates an annual income of more than half a million, whilst it facilitates and simplifies all the functions of administration. The King's household—at the remotest avenues to which, all reformation has been hitherto stopped—that household, which has been the stronghold of prodigality, the virgin fortress which was never before attacked—has been not only not defended, but it has, even in the forms, been surrendered by the King to the economy of his minister. No capitulation; no reserve. Economy has entered in triumph into the public splendour of the monarch, into his private amusements, into the appointments of his nearest and highest relations. Economy and public spirit have made a beneficent and an honest spoil; they have plundered, from extravagance and luxury, for the use of substantial service, a revenue of near four hundred thousand pounds. The reform of the finances, joined to this reform of the court, gives to the public nine hundred thousand pounds a year and upwards.

"The minister who does these things is a great man—but the king who desires that they should be done, is a far greater. We must do justice to our enemies:—these are the acts of a patriot king. I am not in dread of the vast armies of France: I am not in dread of the gallant spirit of its brave and numerous nobility: I am not alarmed even at the great navy which has been so miraculously created. All these things Louis XIV. had before. With all these things, the French monarchy has more than once fallen prostrate at the feet of the public faith of Great Britain. It was the want of public credit which disabled France from recovering after her defeats, or recovering even from her victories and triumphs. It was a prodigal court, it was an ill-ordered revenue, that sapped the foundations of all her greatness. Credit cannot exist under the arm of necessity. Necessity strikes at credit, I allow, with a heavier and quicker blow under an arbitrary monarchy, than under a limited and balanced government: but still necessity and credit are natural enemies, and cannot be

* Lord North.

long reconciled in any situation. From necessity and corruption, a free state may lose the spirit of that complex constitution which is the foundation of confidence. On the other hand, I am far from being sure, that a monarchy, when once it is properly regulated, may not for a long time furnish a foundation for credit upon the solidity of its maxims, though it affords no ground of trust in its institutions. I am afraid I see in England, and in France, something like a beginning of both these things. I wish I may be found in a mistake.

"This very short and very imperfect statement of what is now going on in France (the last circumstances of which I received in about eight days after the registry of the edict)* I do not, Sir, lay before you for any invidious purpose. It is in order to excite in us the spirit of a noble emulation.—Let the nations make war upon each other (since we must make war) not with a low and vulgar malignity, but by a competition of virtues. This is the only way by which both parties can gain by war. The French have imitated us; let us, through them, imitate ourselves; ourselves in our better and happier days. If public frugality, under whatever men, or in whatever mode of government, is national strength, it is a strength which our enemies are in possession of before us.

"Sir, I am well aware, that the state and the result of the French economy which I have laid before you, are even now lightly treated by some, who ought never to speak but from information. Pains have not been spared, to represent them as impositions on the public. Let me tell you, Sir, that the creation of the navy, and a two years' war without taxing, are a very singular species of imposture. But be it so. For what end does Necker carry on this delusion? Is it to lower the estimation of the crown he serves, and to render his own administration contemptible? No! no! He is conscious, that the sense of mankind is so clear and decided in favour of economy, and of the weight and value of its resources, that he turns himself to every species of fraud and artifice, to obtain the mere reputation of it. Men do not affect a conduct that tends to their discredit. Let us, then, get the better of Monsieur Necker in his own way. Let us do in reality what he does only in pretence. Let us turn his French tinsel into English gold. Is, then, the mere opinion and appearance of frugality and good management of such use to France, and is the substance to be so mischievous to England? Is the very constitution of nature so altered by a sea of twenty miles, that economy should give power on the continent, and that profusion should give it here? For God's sake, let not this be the only fashion of France which we refuse to copy.

"To the last kind of necessity, the desires of the people, I have but a very few words to say. The Ministers seem to contest this point; and affect to doubt, whether the people do really desire a plan of economy in the civil government. Sir, this is too ridiculous. It is impossible that they should

* The Edict of January 1780.

not desire it. It is impossible that a prodigality which draws its resources from their indigence, should be pleasing to them. Little factions of pensioners, and their dependants, may talk another language. But the voice of nature is against them; and it will be heard. The people of England will not, they cannot take it kindly, that representatives should refuse to their constituents, what an absolute sovereign voluntarily offers to his subjects. The expression of the petitions is, that '*before any new burthens are laid upon this country, effectual measures be taken by this House, to inquire into, and correct, the gross abuses in the expenditure of public money.*'

"This has been treated by the noble lord in the blue ribbon as a wild factious language. It happens, however, that the people, in their address to us, use almost word for word the same terms as the King of France uses in addressing himself to his people; and it differs only, as it falls short of the French king's idea of what is due to his subjects. '*To convince,*' says he, '*our faithful subjects of the desire we entertain not to recur to new impositions, until we have first exhausted all the resources which order and economy can possibly supply,*' &c. &c.

"These desires of the people of England, which come far short of the voluntary concessions of the King of France, are moderate indeed. They only contend that we should interweave some economy with the taxes with which we have chosen to begin the war. They request, not that you should rely upon economy exclusively, but that you should give it rank and precedence, in the order of the ways and means of this single session.

"But if it were possible, that the desires of our constituents, desires which are at once so natural, and so very much tempered and subdued, should have no weight with a House of Commons, which has its eye elsewhere; I would turn my eyes to the very quarter to which theirs are directed. I would reason this matter with the House, on the mere policy of the question; and I would undertake to prove, that an early dereliction of abuse is the direct interest of Government, of Government taken abstractedly from its duties, and considered merely as a system intending its own conservation.

"If there is any one eminent criterion, which, above all the rest, distinguishes a wise government from an administration weak and improvident, it is this: 'well to know the best time and manner of yielding what it is impossible to keep.' There have been, Sir, and there are, many who choose to chicane with their situation, rather than be instructed by it. Those gentlemen argue against every desire of reformation, upon the principles of a criminal prosecution. It is enough for them to justify their adherence to a pernicious system, that it is not of their contrivance; that it is an inheritance of absurdity, derived to them from their ancestors; that they can make out a long and unbroken pedigree of mismanagers that have gone before them. They are proud of the antiquity of their house; and they defend their errors, as if they were defending their inheritance; afraid of derogating from their nobility; and carefully avoiding a sort of blot in their scutcheon, which they think would degrade them for ever.

"It was thus that the unfortunate Charles I. defended himself on the practice of the Stuart who went before him, and of all the Tudors; his partisans might have gone to the Plantagenets. They might have found bad examples enough, both abroad and at home, that could have shown an ancient and illustrious descent. But there is a time when men will not suffer bad things because their ancestors have suffered worse. There is a time, when the hoary head of inveterate abuse will neither draw reverence nor obtain protection. If the noble lord in the blue ribbon pleads, '*not guilty*,' to the charges brought against the present system of public economy, it is not possible to give a fair verdict by which he will not stand acquitted. But pleading is not our present business. His plea or his traverse may be allowed as an answer to a charge, when a charge is made. But if he puts himself in the way to obstruct reformation, then the faults of his office instantly become his own. Instead of a public officer in an abusive department, whose province is an object to be regulated, he becomes a criminal who is to be punished. I do most seriously put it to Administration, to consider the wisdom of a timely reform. Early reformations are amicable arrangements with a friend in power; late reformations are terms imposed upon a conquered enemy; early reformations are made in cool blood; late reformations are made under a state of inflammation. In that state of things the people behold in government nothing that is respectable. They see the abuse, and they will see nothing else; they fall into the temper of a furious populace provoked at the disorder of a house of ill-fame; they never attempt to correct or regulate; they go to work by the shortest way: they abate the nuisance, they pull down the house.

"This is my opinion with regard to the true interest of government. But as it is the interest of government that reformation should be early, it is the interest of the people that it should be temperate. It is their interest, because a temperate reform is permanent; and because it has a principle of growth. Whenever we improve, it is right to leave room for a further improvement. It is right to consider, to look about us, to examine the effect of what we have done. Then we can proceed with confidence, because we can proceed with intelligence. Whereas in hot reformations, in what men, more zealous than considerate, call *making clear work*, the whole is generally so crude, so harsh, so indigested; mixed with so much imprudence, and so much injustice; so contrary to the whole course of human nature and human institutions, that the very people who are most eager for it, are among the first to grow disgusted at what they have done. Then some part of the abdicated grievance is recalled from its exile, in order to become a corrective of the correction. Then the abuse assumes all the credit and popularity of a reform. The very idea of purity and disinterestedness in politics falls into disrepute, and is considered as a vision of hot and inexperienced men; and thus disorders become incurable, not by the virulence of their own quality, but by the unapt and violent nature of the remedies. A great part, therefore, of my idea of reform is meant to operate gradually;

some benefits will come at a nearer, some at a more remote period. We must no more make haste to be rich by parsimony, than by intemperate acquisition.

"In my opinion, it is our duty, when we have the desires of the people before us, to pursue them, not in the spirit of literal obedience, which may militate with their very principle, much less to treat them with a peevish and contentious litigation, as if we were adverse parties in a suit. It would, Sir, be most dishonourable for a faithful representative of the Commons to take advantage of any inartificial expression of the people's wishes, in order to frustrate their attainment of what they have an undoubted right to expect. We are under infinite obligations to our constituents, who have raised us to so distinguished a trust, and have imparted such a degree of sanctity to common characters. We ought to walk before them with purity, plainness, and integrity of heart; with filial love, and not with slavish fear, which is always a low and tricking thing. For my own part, in what I have meditated upon that subject, I cannot, indeed, take upon me to say I have the honour *to follow* the sense of the people. The truth is, *I met it on the way*, while I was pursuing their interest according to my own ideas. I am happy, beyond expression, to find that my intentions have so far coincided with theirs, that I have not had cause to be, in the least, scrupulous to sign their petition, conceiving it to express my own opinions, as nearly as general terms can express the object of particular arrangements.

"I am, therefore, satisfied to act as a fair mediator between Government and the people, endeavouring to form a plan which should have both an early and a temperate operation. I mean, that it should be substantial; that it should be systematic; that it should rather strike at the first cause of prodigality and corrupt influence, than attempt to follow them in all their effects.

"It was to fulfil the first of these objects (the proposal of something substantial), that I found myself obliged, at the outset, to reject a plan proposed by an honourable and attentive member of Parliament,* with very good intentions on his part, about a year or two ago. Sir, the plan I speak of was the tax of twenty-five per cent. moved upon places and pensions during the continuance of the American war. Nothing, Sir, could have met my ideas more than such a tax, if it was considered as a practical satire on that war, and as a penalty upon those who led us into it; but in any other view it appeared to me very liable to objections. I considered the scheme as neither substantial, nor permanent, nor systematical, nor likely to be a corrective of evil influence. I have always thought employments a very proper subject of regulation, but a very ill-chosen subject for a tax. An equal tax upon property is reasonable; because the object is of the same quality throughout. The species is the same, it differs only in its quantity. But a tax upon salaries is totally of a different nature; there can be no equality, and consequently no justice, in taxing them by the hundred, in the gross.

* Thomas Gilbert, Esq., member for Litchfield.

"We have, Sir, on our establishment, several offices which perform real service: we have also places that provide large rewards for no service at all. We have stations which are made for the public decorum; made for preserving the grace and majesty of a great people. We have likewise expensive formalities, which tend rather to the disgrace than the ornament of the state and the court. This, Sir, is the real condition of our establishments. To fall with the same severity on objects so perfectly dissimilar, is the very reverse of a reformation. I mean a reformation framed, as all serious things ought to be, in number, weight, and measure. Suppose, for instance, that two men receive a salary of £800 a-year each. In the office of one, there is nothing at all to be done; in the other, the occupier is oppressed by its duties. Strike off twenty-five per cent. from these two offices, you take from one man £200, which in justice he ought to have, and you give in effect to the other £600, which he ought not to receive. The public robs the former, and the latter robs the public; and this mode of mutual robbery is the only way in which the office and the public can make up their accounts.

"But the balance in settling the account of this double injustice, is much against the state. The result is short. You purchase a saving of two hundred pounds by a profusion of six. Besides, Sir, whilst you leave a supply of unsecured money behind, wholly at the discretion of Ministers, they make up the tax to such places as they wish to favour, or in such new places as they may choose to create. Thus the Civil List becomes oppressed with debt; and the public is obliged to repay, and to repay with a heavy interest, what it has taken by an injudicious tax. Such has been the effect of the taxes hitherto laid on pensions and employments, and it is no encouragement to recur again to the same expedient.

"In effect, such a scheme is not calculated to produce, but to prevent reformation. It holds out a shadow of present gain to a greedy and necessitous public, to divert their attention from those abuses, which in reality are the great causes of their wants. It is a composition to stay inquiry; it is a fine paid by mismanagement, for the renewal of its lease. What is worse, it is a fine paid by industry and merit for an indemnity to the idle and the worthless. But I shall say no more upon this topic, because (whatever may be given out to the contrary) I knew that the noble lord in the blue ribbon perfectly agrees with me in these sentiments.

"After all that I have said on this subject, I am so sensible that it is our duty to try everything which may contribute to the relief of the nation, that I do not attempt wholly to reprobate the idea even of a tax. Whenever, Sir, the incumbrance of useless office (which lies no less a dead weight upon the service of the state, than upon its revenues), shall be removed; when the remaining offices shall be classed according to the just proportion of their rewards and services, so as to admit the application of an equal rule to their taxation;—when the discretionary power over the civil-list cash shall be so regulated, that a minister shall no longer have the means of repaying with a private, what is taken by a public, hand; if after all these preliminary

regulations, it should be thought that a tax on places is an object worthy of the public attention, I shall be very ready to lend my hand to a reduction of their emoluments.

"Having thus, Sir, not so much absolutely rejected, as postponed, the plan of a taxation of office—my next business was to find something which might be really substantial and effectual. I am quite clear, that if we do not go to the very origin and first ruling cause of grievances, we do nothing. What does it signify to turn abuses out of one door, if we are to let them in at another? What does it signify to promote economy upon a measure, and to suffer it to be subverted in the principle? Our Ministers are far from being wholly to blame for the present ill order which prevails. Whilst institutions directly repugnant to good management are suffered to remain, no effectual or lasting reform can be introduced.

"I, therefore, thought it necessary, as soon as I conceived thoughts of submitting to you some plan of reform, to take a comprehensive view of its the state of this country; to make a sort of survey of its jurisdictions, estates, and its establishments. Something, in every one of them, seemed to me to stand in the way of all economy in their administration, and prevented every possibility of methodising the system. But being, as I ought to be, doubtful of myself, I was resolved not to proceed in an arbitrary manner, in any particular which tended to change the settled state of things, or in any degree to affect the fortune or situation, the interest or the importance, of any individual. By an arbitrary proceeding, I mean one conducted by the private opinions, tastes, or feelings, of the man who attempts to regulate. These private measures are not standards of the exchequer, nor balances of the sanctuary. General principles cannot be debauched or corrupted by interest or caprice; and by those principles I was resolved to work.

"Sir, before I proceed further, I will lay those principles fairly before you, that afterwards you may be in a condition to judge whether every object of of regulation, as I propose it, comes fairly under its rule. This will exceedingly shorten all discussion between us, if we are perfectly in earnest in establishing a system of good management. I, therefore, lay down to myself seven fundamental rules; they might, indeed, be reduced to two or three simple maxims, but they would be too general, and their application to the several heads of the business before us would not be so distinct and visible. I conceive, then,

"First, That all jurisdictions which furnish more matter of expense, more temptation to oppression, or more means and instruments of corrupt influence, than advantage to justice or political administration, ought to be abolished.

"Secondly, That all public estates which are more subservient to the purposes of vexing, overawing, and influencing those who hold under them, and to the expense of perception and management, than of benefit to the revenue, ought, upon every principle, both of revenue and of freedom, to be disposed of.

"Thirdly, That all offices which bring more charge than proportional advantage to the state; that all offices which may be engrafted on others, uniting and simplifying their duties, ought, in the first case, to be taken away; and, in the second, to be consolidated.

"Fourthly, That all such offices ought to be abolished as obstruct the prospect of the general superintendent of finance; which destroy his superintendency; which disable him from foreseeing and providing for charges as they may occur; from preventing expense in its origin, checking it in its progress, or securing its application to its proper purposes. A minister under whom expenses can be made without his knowledge, can never say what it is that he can spend, or what it is that he can save.

"Fifthly, That it is proper to establish an invariable order in all payments; which will prevent partiality; which will give preference to services, not according to the importunity of the demandant, but the rank and order of their utility or their justice.

"Sixthly, That it is right to reduce every establishment, and every part of an establishment (as nearly as possible) to certainty, the life of all order and good management.

"Seventhly, That all subordinate treasuries, as the nurseries of mismanagement, and as naturally drawing to themselves as much money as they can, keeping it as long as they can, and accounting for it as late as they can, ought to be dissolved. They have a tendency to perplex and distract the public accounts, and to excite a suspicion of government, even beyond the extent of their abuse.

"Under the authority, and with the guidance of those principles, I proceed; wishing that nothing in any establishment may be changed, where I am not able to make a strong, direct, and solid application of those principles, or of some one of them. An economical constitution is a necessary basis for an economical administration.

"First, with regard to the sovereign jurisdictions, I must observe, Sir, that whoever takes a view of this kingdom in a cursory manner, will imagine, that he beholds a solid, compacted, uniform system of monarchy; in which all inferior jurisdictions are but as rays diverging from one centre. But on examining it more nearly, you find much eccentricity and confusion. It is not a *monarchy* in strictness. But, as in the Saxon times this country was a heptarchy, it is now a strange sort of *pentarchy*. It is divided into five several distinct principalities, besides the supreme. There is indeed this difference from the Saxon times, that as in the itinerant exhibitions of the stage, for want of a complete company, they are obliged to cast a variety of parts on their chief performer; so our sovereign condescends himself to act, not only the principal, but all the subordinate parts in the play. He condescends to dissipate the royal character, and to trifle with those light, subordinate, lackered sceptres, in the hands that sustain the ball which represents the world, or which wield the trident that commands the ocean. Cross a brook, and you lose the King of England; but you have some comfort in coming

again under his majesty, though 'shorn of his beams,' and no more than Prince of Wales. Go to the north, and you find him dwindled to a Duke of Lancaster;* turn to the west of that north, and he pops upon you in the humble character of Earl of Chester.† Travel a few miles on, the Earl of Chester disappears; and the king surprises you again as Count Palatine of Lancaster. If you travel beyond Mount Edgecombe, you find him once more in his incognito, and he is Duke of Cornwall.‡ So that, quite fatigued and satiated with this dull variety, you are infinitely refreshed when you return to the sphere of his proper splendour, and behold your amiable sovereign in his true, simple, and undisguised, native character of majesty.

"In every one of these five principalities, duchies, palatinates, there is a regular establishment of considerable expense, and most domineering influence. As his Majesty submits to appear in this state of subordination to himself, so his loyal peers and faithful commons attend his royal transformations; and are not so nice as to refuse to nibble at those crumbs of emolument which console their petty metamorphoses. Thus every one of these principalities has the apparatus of a kingdom, for the jurisdiction over a few private estates; and the formality and charge of the exchequer of Great Britain, for collecting the rents of a country squire. Cornwall is the best of them; but when you compare the charge with the receipt, you will find that it furnishes no exception to the general rule. The duchy and county palatine of Lancaster do not yield, as I have reason to believe, on an average of twenty years, four thousand pounds a year, clear to the Crown. As to Wales, and the county palatine of Chester, I have my doubts whether their productive exchequer yields any returns at all. Yet one may say, that this revenue is more faithfully applied to its purposes than any of the rest; as it exists for the sole purpose of multiplying offices and extending influence.

"An attempt was lately made to improve this branch of local influence, and to transfer it to the fund of general corruption. I have on the seat behind me, the constitution of Mr. John Probert; a knight-errant, dubbed by the noble lord in the blue ribbon, and sent to search for revenues and adventures upon the mountains of Wales. The commission is remarkable; and the event not less so. The commission sets forth, that 'Upon a report of the *deputy auditor* (for there is a deputy auditor) of the principality of Wales, it appeared, that his Majesty's land revenues in the said Principality *are greatly diminished;*'—and, 'that upon a *report* of the *surveyor-general* of his Majesty's land revenues, upon a *memorial* of the auditor of his Majesty's revenues *within the said Principality*, that his mines and forests have produced very *little profit either to the public revenue or to individuals;*'—and therefore

* Mr. Burke fully traces the History of the Duchy of Lancaster, post. p. 596.

† John, Earl of Chester, dying without male issue, Henry III. seized upon the earldom, which he bestowed upon his eldest son, Prince Edward.

‡ Cornwall was constituted a dukedom in 1337, in favour of Edward the Black Prince, and, by Act of Parliament, settled on the eldest sons of the kings of England, with whom it has remained ever since.

they appoint Mr. Probert, with a pension of three hundred pounds a year from the said principality, to try whether he can make anything more of that very *little* which is stated to be so *greatly* diminished. '*A beggarly account of empty boxes.*' And yet, Sir, you will remark, that this diminution from littleness (which serves only to prove the infinite divisibility of matter) was not for want of the tender and officious care (as we see) of surveyors general, and surveyors particular; of auditors, and deputy auditors; not for want of memorials, and remonstrances, and reports, and commissions, and constitutions, and inquisitions, and pensions.

"Probert, thus armed, and accoutred, and paid, proceeded on his adventure; but he was no sooner arrived on the confines of Wales, than all Wales was in arms to meet him. That nation is brave, and full of spirit. Since the invasion of King Edward, and the massacre of the bards, there never was such a tumult, and alarm, and uproar, through the region of Prestatyn. Snowdon shook to its base; Cader Idris was loosened from its foundations. The fury of litigious war blew her horn on the mountains. The rocks poured down their goatherds, and the deep caverns vomited out their miners. Everything above ground, and everything under ground, was in arms.

"In short, Sir, to alight from my Welsh Pegasus, and to come to level ground; the *preux* Chevalier Probert went to look for revenue, like his masters upon other occasions; and, like his masters, he found rebellion. But we were grown cautious by experience. A civil war of paper might end in a more serious war; for now remonstrance met remonstrance, and memorial was opposed to memorial. The wise Britons thought it more reasonable, that the poor, wasted, decrepit revenue of the principality, should die a natural, than a violent, death. They chose that their ancient moss-grown castles should moulder into decay under the silent touches of time, and the slow formality of an oblivious and drowsy exchequer, than that they should be battered down all at once by the lively efforts of a pensioned engineer. As it is the fortune of the noble lord to whom the auspices of this campaign belonged, frequently to provoke resistance, so it is his rule and his nature to yield to that resistance in all cases whatsoever. He was true to himself on this occasion. He submitted with spirit to the spirited remonstrances of the Welsh. Mr. Probert gave up his adventure, and keeps his pension—and so ends 'the famous history of the revenue adventures of the bold Baron North, and the good Knight Probert, upon the mountains of Venodotia.'

"In such a state is the exchequer of Wales at present, that, upon the report of the Treasury itself, its *little* revenue is *greatly* diminished; and we see by the whole of this strange transaction, that an attempt to improve it produces resistance; the resistance produces submission; and the whole ends in pension.

"It is nearly the same with the revenues of the duchy of Lancaster. To do nothing with them is extinction; to improve them is oppression.

Indeed, the whole of the estates which support these minor principalities, is made up, not of revenues, and rents, and profitable fines, but of claims, of pretensions, of vexations, of litigations. They are exchequers of unfrequent receipt, and constant charge; a system of finances not fit for an economist who would be rich; not fit for a prince who would govern his subjects with equity and justice.

"It is not only between prince and subject that these mock jurisdictions and mimic revenues produce great mischief. They excite among the people a spirit of informing and delating, a spirit of supplanting and undermining one another. So that many, in such circumstances, conceive it advantageous to them, rather to continue subject to vexation themselves, than to give up the means and chance of vexing others. It is exceedingly common for men to contract their love to their country into an attachment to its petty subdivisions; and they sometimes even cling to their provincial abuses, as if they were franchises, and local privileges. Accordingly, in places where there is much of this kind of estate, persons will be always found who would rather trust to their talents in recommending themselves to power for the renewal of their interests, than to encumber their purses, though never so lightly, in order to transmit independence to their posterity. It is a great mistake, that the desire of securing property is universal among mankind. Gaming is a principle inherent in human nature. It belongs to us all. I would, therefore, break those tables; I would furnish no evil occupation for that spirit; I would make every man look everywhere, except to the intrigue of a court, for the improvement of his circumstances, or the security of his fortune. I have in my eye a very strong case in the duchy of Lancaster (which lately occupied Westminster-hall and the House of Lords), as my voucher for many of these reflections.*

"For what plausible reason are these principalities suffered to exist? When a government is rendered complex (which in itself is no desirable thing) it ought to be for some political end, which cannot be answered otherwise. Subdivisions in government are only admissible in favour of the dignity of inferior princes and high nobility; or for the support of an aristocratic confederacy under some head; or for the conservation of the franchises of the people in some privileged province. Such, for the two former of these ends, are the subdivisions in favour of the electoral, and other princes in the empire; for the latter of these purposes, are the jurisdictions of the imperial cities, and the Hanse towns. For the latter of these ends are also the countries of the States [*Pays d'Etats*], and certain cities and orders in France. These are all regulations with an object, and some of them with a very good object. But how are the principles of any of these subdivisions applicable in the case before us?

"Do they answer any purpose to the King? The principality of Wales

* Case of Richard Lee, Esq., appellant, against George Venables Lord Vernon, respondent, in the year 1776.

was given by patent to Edward the Black Prince, on the ground on which it has stood ever since. Lord Coke sagaciously observes upon it, 'That in the charter of creating the Black Prince, Edward Prince of Wales, there is a *great mystery*—for *less* than an estate of inheritance so *great* a prince *could* not have, and an *absolute estate of inheritance* in so *great* a principality as Wales (this principality being *so dear* to him) he *should* not have; and therefore it was made *sibi et heredibus suis regibus Angliæ*, that by his decease, or attaining to the crown, it might be extinguished in the crown.'

"For the sake of this foolish *mystery*, of what a great prince *could* not have *less*, and *should* not have *so much*, of a principality which was too *dear* to be given, and too *great* to be kept—and for no other cause that ever I could find—this form and shadow of a principality without any substance has been maintained. That you may judge in this instance (and it serves for the rest) of the difference between a great and a little economy, you will please to recollect, Sir, that Wales may be about the tenth part of England in size and population; and certainly not a hundredth part in opulence. Twelve judges perform the whole of the business, both of the stationary and the itinerant justice of this kingdom; but for Wales, there are eight judges. There is in Wales an exchequer, as well as in all the duchies, according to the very best and most authentic absurdity of form. There are in all of them a hundred more difficult trifles and laborious fooleries, which serve no other purpose than to keep alive corrupt hope and servile dependence.

"These principalities are so far from contributing to the ease of the King, to his wealth, or his dignity, that they render both his supreme and his subordinate authority perfectly ridiculous. It was but the other day, that that pert, factious fellow, the Duke of Lancaster, presumed to fly in the face of his liege lord, our gracious sovereign; and associating with a parcel of lawyers as factious as himself, to the destruction of all law and order, and in committees leading directly to rebellion—presumed to go to law with the King. The object is neither your business nor mine. Which of the parties got the better, I really forget. I think it was (as it ought to be) the King. The material point is, that the suit cost about fifteen thousand pounds. But as the Duke of Lancaster is but a sort of Duke Humphrey, and not worth a groat, our Sovereign was obliged to pay the costs of both. Indeed, this art of converting a great monarch into a little prince, this royal masquerading, is a very dangerous and expensive amusement; and one of the King's *menus plaisirs* which ought to be reformed. This duchy, which is not worth four thousand pounds a-year at best, to revenue, is worth forty or fifty thousand to influence.

"The duchy of Lancaster, and the county palatine of Lancaster, answered, I admit, some purpose in their original creation. They tended to make a subject imitate a prince. When Henry the IV. from that stair ascended the throne, high-minded as he was, he was not willing to kick away the

ladder. To prevent that Principality from being extinguished in the crown, he severed it by act of Parliament. He had a motive, such as it was. He thought his title to the crown unsound, and his possession insecure. He therefore managed a retreat in his duchy; which Lord Coke calls (I do not know why) *par multis regnis*. He flattered himself that it was practicable to make a projecting point half way down, to break his fall from the precipice of royalty: as if it were possible for one who had lost a kingdom to keep anything else. However, it is evident that he thought so. When Henry V. united, by act of Parliament, the estates of his mother to the duchy, he had the same predilection with his father, to the root of his family honours, and the same policy in enlarging the sphere of a possible retreat from the slippery royalty of the two great crowns he held. All this was changed by Edward IV. He had no such family partialities, and his policy was the reverse of that of Henry IV. and Henry V. He accordingly again united the duchy of Lancaster to the Crown. But when Henry VII., who chose to consider himself as of the house of Lancaster, came to the throne, he brought with him the old pretensions and the old politics of that house. A new act of Parliament, a second time, dissevered the duchy of Lancaster from the Crown; and in that line things continued until the subversion of the monarchy, when principalities and powers fell along with the throne. The duchy of Lancaster must have been extinguished, if Cromwell, who began to form ideas of aggrandizing his house, and raising the several branches of it, had not caused the duchy to be again separated from the commonwealth, by an act of Parliament of those times.

"What partiality, what objects of the politics of the house of Lancaster, or of Cromwell, has his present majesty, or his majesty's family? What power have they within any of these Principalities, which they have not within their kingdom? In what manner is the dignity of the nobility concerned in these Principalities? What rights have the subjects there, which they have not at least equally in every other part of the nation? These distinctions exist for no good end to the King, to the nobility, or to the people. They ought not to exist at all. If the Crown (contrary to its nature, but most conformably to the whole tenor of the advice that has been lately given) should so far forget its dignity, as to contend that these jurisdictions and revenues are estates of private property, I am rather for acting as if that groundless claim were of some weight, than for giving up that essential part of the reform. I would value the clear income, and give a clear annuity to the Crown, taken on the medium produce for twenty years.

"If the Crown has any favourite name or title, if the subject has any matter of local accommodation within any of these jurisdictions, it is meant to preserve them; and to improve them, if any improvement can be suggested. As to the Crown reversions or titles, upon the property of the people there, it is proposed to convert them from a snare to their independence, into a relief from their burthens. I propose, therefore, to unite all the five Principalities to the Crown, and to its ordinary jurisdiction,—to abolish all those

offices that produce a useless and chargeable separation from the body of the people,—to compensate those who do not hold their offices (if any such there are) at the pleasure of the Crown,—to extinguish vexatious titles by an act of short limitation,—to sell those unprofitable estates which support useless jurisdictions, and to turn the tenant-right into a fee, on such moderate terms as will be better for the state than its present right, and which it is impossible for any rational tenant to refuse.

"As to the duchies, their judicial economy may be provided for without charge. They have only to fall of course into the common county administration. A commission, more or less made or omitted, settles the matter fully. As to Wales, it has been proposed to add a judge to the several courts of Westminster-hall; and it has been considered as an improvement in itself. For my part, I cannot pretend to speak upon it with clearness or with decision; but certainly this arrangement would be more than sufficient for Wales. My original thought was to suppress five of the eight judges; and to leave the chief justice of Chester, with the two senior judges; and, to facilitate the business, to throw the twelve counties into six districts, holding the sessions alternately in the counties of which each district shall be composed. But on this I shall be more clear, when I come to the particular bill.

"Sir, the House will now see whether, in praying for judgment against the minor principalities, I do not act in conformity to the laws that I had laid down to myself, of getting rid of every jurisdiction more subservient to oppression and expense, than to any end of justice or honest policy; of abolishing offices more expensive than useful; of combining duties improperly separated; of changing revenues more vexatious than productive, into ready money; of suppressing offices which stand in the way of economy; and of cutting off lurking subordinate treasuries. Dispute the rules; controvert the application; or give your hands to this salutary measure. Most of the same rules will be found applicable to my second object—*the landed estate of the crown*. A landed estate is certainly the very worst which the crown can possess. All minute and dispersed possessions, possessions that are often of indeterminate value, and which require a continued personal attendance, are of a nature more proper for private management than public administration. They are fitter for the care of a frugal land-steward than of an office in the state. Whatever they may possibly have been in other times or in other countries, they are not of magnitude enough with us, to occupy a public department, nor to provide for a public object. They are already given up to Parliament, and the gift is not of great value. Common prudence dictates, even in the management of private affairs, that all dispersed and chargeable estates should be sacrificed to the relief of estates more compact and better circumstanced.

"If it be objected that these lands at present would sell at a low market, this is answered by showing that money is at high price. The one balances the other. Lands sell at the current rate, and nothing can sell for more.

But be the price what it may, a great object is always answered, whenever any property is transferred from hands that are not fit for that property, to those that are. The buyer and seller must mutually profit by such a bargain; and, what rarely happens in matters of revenue, the relief of the subject will go hand in hand with the profit of the exchequer.

"As to the *forest lands*, in which the crown has (where they are not granted or prescriptively held) the dominion of the soil, and the vert and venison; that is to say, the timber and the game, and in which the people have a variety of rights, in common of herbage, and other commons, according to the usage of the several forests;—I propose to have those rights of the crown valued as manorial rights are valued on an enclosure; and a defined portion of land to be given for them, which land is to be sold for the public benefit.

"As to the timber, I propose a survey of the whole. What is useless for the naval purposes of the kingdom, I would condemn, and dispose of, for the security of what may be useful; and to enclose such other parts as may be most fit to furnish a perpetual supply; wholly extinguishing, for a very obvious reason, all right of venison in those parts.

"The forest rights which extend over the lands and possessions of others, being of no profit to the crown, and a grievance, as far as it goes, to the subject; these I propose to extinguish without charge to the proprietors. The several commons are to be allotted and compensated for upon ideas which I shall hereafter explain. They are nearly the same with the principles upon which you have acted in private enclosures. I shall never quit precedents where I find them applicable. For those regulations and compensations, and for every other part of the detail, you will be so indulgent as to give me credit for the present.

"The revenue to be obtained from the sale of the forest lands and rights will not be so considerable as many people have imagined; and it would be unwise to screw it up to the utmost; or even to suffer bidders to enhance, according to their eagerness, the purchase of these lands, when the expense of that purchase may weaken the capital to be employed in their cultivation. This, I am well aware, might give room for partiality in the disposal. In my opinion it would be the lesser evil of the two. But surely a rule of fair preference might be established, which would take away all sort of unjust and corrupt partiality. The principal revenue which I propose to draw from these uncultivated wastes, is to spring from the improvement and population of the kingdom; which never can happen without producing an improvement more advantageous to the revenues of the crown than the rents of the best landed estate which it can hold. It will be hardly necessary for me to add, that in this sale, I naturally except all the houses, gardens, and parks belonging to the crown, and such one forest as shall be chosen by his Majesty, as best accommodated to his pleasures.

"By means of this part of the reform will fall the expensive office of *surveyor-general*, with all the influence that attends it. By this, will fall

two Chief-justices in Eyre,* with all their train of dependants. You need be under no apprehension, Sir, that your office is to be touched in its emoluments.† They are yours by law; and they are but a moderate part of the compensation which is given to you for the ability with which you execute an office of quite another sort of importance: it is far from overpaying your diligence; or more than sufficient for sustaining the high rank you stand in, as the first gentleman of England. As to the duties of your chief-justiceship, they are very different from those for which you have received the office. Your dignity is too high for a jurisdiction over wild beasts; and your learning and talents too valuable to be wasted as chief justice of a desert. I cannot reconcile it to myself, that you, Sir, should be stuck up as a useless piece of antiquity.

"I have now disposed of the unprofitable landed estates of the crown, and thrown them into the mass of private property, by which they will come, through the course of circulation, and through the political secretions of the state, into our better-understood and better-ordered revenues.

"I come next to the great supreme body of the civil government itself. I approach it with that awe and reverence with which a young physician approaches to the cure of the disorders of his parent. Disorders, Sir, and infirmities there are—such disorders, that all attempts towards method, prudence, and frugality will be perfectly vain, whilst a system of confusion remains, which is not only alien, but adverse to all economy; a system which is not only prodigal in its very essence, but causes everything else which belongs to it to be prodigally conducted.

"It is impossible, Sir, for any person to be an economist where no order in payments is established; it is impossible for a man to be an economist, who is not able to take a comparative view of his means and of his expenses, for the year which lies before him; it is impossible for a man to be an economist, under whom various officers, in their several departments, may spend—even just what they please,—and often with an emulation of expense, as contributing to the importance, if not profit, of their several departments. Thus much is certain, that neither the present nor any other first lord of the treasury, has been ever able to take a survey, or to make even a tolerable guess, of the expenses of government for any one year; so as to enable him, with the least degree of certainty, or even probability, to bring his affairs within compass. Whatever scheme may be formed upon them, must be made on a calculation of chances. As things are circumstanced, the first lord of the treasury cannot make an estimate. I am sure I serve the King, and I am sure I assist Administration, by putting economy at least in their power. We

* When the forest laws were in force, the office of Chief-justice in Eyre was one of great trust and dignity. There are two of them, one whose power extends south of the river Trent, and the other north of that river. According to the ancient custom it was their duty to go circuits every third year, and punish all abuses committed in the royal forests.

† Charles Wolfran Cornwall, Esq., the Speaker, had been lately appointed to the office of Chief-justice in Eyre.

must *class* services; we must (as far as their nature admits) *appropriate* funds; or everything, however reformed, will fall again into the old confusion.

"Coming upon this ground of the civil list, the first thing in dignity and charge that attracts our notice is the *royal household.* This establishment, in my opinion, is exceedingly abusive in its constitution. It is formed upon manners and customs that have long since expired. In the first place, it is formed, in many respects, upon feudal principles. In the feudal times, it was not uncommon, even among subjects, for the lowest offices to be held by considerable persons; persons as unfit by their incapacity, as improper, from their rank, to occupy such employments. They were held by patent, sometimes for life, and sometimes by inheritance. If my memory does not deceive me, a person of no slight consideration held the office of patent hereditary cook to an Earl of Warwick—the Earl of Warwick's soups, I fear, were not the better for the dignity of his kitchen. I think it was an earl of Gloucester who officiated as steward of the household to the archbishops of Canterbury. Instances of the same kind may, in some degree, be found in the Northumberland house-book, and other family records. There was some reason in ancient necessities for these ancient customs. Protection was wanted; and the domestic tie, though not the highest, was the closest.

"The King's household has not only several strong traces of this feudality, but it is formed also upon the principles of a *body-corporate.* It has its own magistrates, courts, and bye-laws. This might be necessary in the ancient times, in order to have a government within itself, capable of regulating the vast and often unruly multitude which composed and attended it. This was the origin of the ancient court called the *green cloth*—composed of the marshal, treasurer, and other great officers of the household, with certain clerks.* The rich subjects of the kingdom who had formerly the same establishments (only on a reduced scale) have since altered their economy; and turned the course of their expense, from the maintenance of vast establishments within their walls, to the employment of a great variety of independent trades abroad. Their influence is lessened; but a mode of accommodation, and a style of splendour, suited to the manners of the times, has been increased. Royalty itself has insensibly followed; and the royal household has been carried away by the resistless tide of manners: but with this very material difference. Private men have got rid of the establishments along with the reasons of them; whereas the royal household has lost all that was stately and venerable in the antique manners, without retrenching anything of the cumbrous charge of a Gothic establishment. It is shrunk into the polished littleness of modern elegance and personal accommodation. It has evaporated from the

* The Board of Green Cloth was a court held in the counting-house, in the department of the lord-steward. It was one of the most ancient courts in England, and had jurisdiction of offences committed within the palace and verge of the court. It derived its name from the circumstance of the table, at which the officers of the court sat, being covered with green cloth. The principal duty of the court was to take an account of all expenses, and generally to superintend the household. It was suppressed in 1782.

gross concrete, into an essence and rectified spirit of expense, where you have tuns of ancient pomp in a vial of modern luxury.

"But when the reason of old establishments is gone, it is absurd to preserve nothing but the burthen of them. This is superstitiously to embalm a carcass not worth an ounce of the gums that are used to preserve it. It is to burn precious oils in the tomb; it is to offer meat and drink to the dead,—not so much an honour to the deceased, as a disgrace to the survivors. Our palaces are vast inhospitable halls. There the bleak winds, there 'Boreas, and Eurus, and Caurus, and Argestes loud,' howling through the vacant lobbies, and clattering the doors of deserted guard-rooms, appal the imagination, and conjure up the grim spectres of departed tyrants—the Saxon, the Norman, and the Dane; the stern Edwards and fierce Henrys—who stalk from desolation to desolation, through the dreary vacuity, and melancholy succession of chill and comfortless chambers. When this tumult subsides, a dead and still more frightful silence would reign in this desert, if every now and then the tacking of hammers did not announce, that those constant attendants upon all courts, in all ages, Jobs, were still alive; for whose sake alone it is, that any trace of ancient grandeur is suffered to remain. These palaces are a true emblem of some governments; the inhabitants are decayed, but the governors and magistrates still flourish. They put me in mind of Old Sarum, where the representatives, more in number than the constituents, only serve to inform us, that this was once a place of trade, and sounding with 'the busy hum of men,' though now you can only trace the streets by the colour of the corn; and its sole manufacture is in members of Parliament.*

"These old establishments were formed also on a third principle, still more adverse to the living economy of the age. They were formed, Sir, on the principle of *purveyance*, and *receipt in kind*.† In former days, when the household was vast, and the supply scanty and precarious, the royal purveyors, sallying forth from under the Gothic Portcullis, to purchase provision with power and prerogative, instead of money, brought home the plunder of a hundred markets, and all that could be seized from a flying and hiding country, and deposited their spoil in a hundred caverns, with each its keeper. There, every commodity, received in its rawest condition, went through all the process which fitted it for use. This inconvenient receipt produced an economy suited only to itself. It multiplied offices beyond all

* See note, *ante*, p. 440.

† Purveyance was a right enjoyed by the Crown of buying up provisions, &c., for the use of the royal household, at an appraised valuation, in preference to all others, and even without the consent of the owner, and in like manner of impressing carriages and horses upon payment of a settled price. The powers of Purveyance having fallen into disuse during the Commonwealth, Charles II., on his restoration, consented to resign them, and they were abolished by 12 Car. II., c. 24. Temporary Acts have since been passed suspending this statute in favour of the King's royal progresses, viz. 13 Car., st. 1. c. 8; 1 Jac. II., c. 10; and in favour of the navy and ordnance, 13 and 4 Car. II., c. 20.

measure; buttery, pantry, and all that rabble of places, which, though profitable to the holders and expensive to the state, are almost too mean to mention.

" All this might be, and I believe was, necessary at first; for it is remarkable, that *purveyance*, after its regulation had been the subject of a long line of statutes, (not fewer, I think, than twenty-six,) was wholly taken away by the twelfth of Charles II.; yet, in the next year of the same reign, it was found necessary to revive it by a special act of parliament, for the sake of the king's journeys. This, Sir, is curious; and what would hardly be expected in so reduced a court as that of Charles II., and in so improved a country as England might then be thought. But so it was. In our time, one well-filled and well-covered stage coach requires more accommodation than a royal progress; and every district, at an hour's warning, can supply an army.

" I do not say, Sir, that all these establishments, whose principle is gone, have been systematically kept up for influence solely: neglect had its share. But this I am sure of, that a consideration of influence has hindered any one from attempting to pull them down. For the purposes of influence, and for those purposes only, are retained half at least of the household establishments. No revenue, no, not a royal revenue, can exist under the accumulated charge of ancient establishment, modern luxury, and parliamentary political corruption.

" If, therefore, we aim at regulating this household, the question will be, whether we ought to economise by *detail* or by *principle?* The example we have had of the success of an attempt to economise by detail, and under establishments adverse to the attempt, may tend to decide this question.

" At the beginning of his Majesty's reign, Lord Talbot came to the administration of a great department in the household.* I believe no man ever entered into his Majesty's service, or into the service of any prince, with a more clear integrity, or with more zeal and affection for the interest of his master; and, I must add, with abilities for a still higher service. Economy was then announced as a maxim of the reign. This noble lord, therefore, made several attempts towards a reform. In the year 1777, when the King's civil list debts came last to be paid, he explained very fully the success of his undertaking. He told the House of Lords that he had attempted to reduce the charges of the King's tables, and his kitchen. The thing, Sir, was not below him. He knew, that there is nothing interesting in the concerns of men whom we love and honour, that is beneath our attention. ' Love,' says one of our old poets, ' esteems no office mean;' and with still more spirit, ' Entire affection scorneth nicer hands.' Frugality, Sir, is founded on the principle that all riches have limits. A royal household, grown enormous, even in the meanest departments, may weaken and perhaps destroy all energy in the highest offices of the state. The gorging a royal

† Lord Steward of the Household.

kitchen may stint and famish the negotiations of a kingdom. Therefore, the object was worthy of his, was worthy of any man's attention.

"In consequence of this noble lord's resolution, (as he told the other House,) he reduced several tables, and put the persons entitled to them upon board wages, much to their own satisfaction. But unluckily, subsequent duties requiring constant attendance, it was not possible to prevent their being fed where they were employed—and thus this first step towards economy doubled the expense.

"There was another disaster far more doleful than this. I shall state it, as the cause of that misfortune lies at the bottom of almost all our prodigality. Lord Talbot attempted to reform the kitchen; but such, as he well observed, is the consequence of having duty done by one person, whilst another enjoys the emoluments, that he found himself frustrated in all his designs. On that rock his whole adventure split—his whole scheme of economy was dashed to pieces; his department became more expensive than ever;—the Civil List debt accumulated. Why? It was truly from a cause which, though perfectly adequate to the effect, one would not have instantly guessed;—it was because the *turnspit in the King's kitchen was a member of Parliament.** The King's domestic servants were all undone; his tradesmen remained unpaid, and became bankrupt,—*because the turnspit of the King's kitchen was a member of Parliament.* His Majesty's slumbers were interrupted, his pillow was stuffed with thorns, and his peace of mind entirely broken, — *because the King's turnspit was a member of Parliament.* The judges were unpaid; the justice of the kingdom bent and gave way; the foreign ministers remained inactive and unprovided; the system of Europe was dissolved; the chain of our alliance was broken; all the wheels of government at home and abroad were stopped;—*because the King's turnspit was a member of Parliament.*

"Such, Sir, was the situation of affairs, and such the cause of that situation, when his Majesty came a second time to Parliament; to desire the payment of those debts which the employment of its members in various offices, visible and invisible, had occasioned.† I believe that a like fate will attend

* *Vide* Lord Talbot's speech in the House of Lords, New Parliamentary History of England, vol. xix. p. 176.

† In February, 1769, a message was sent from the King to the House of Commons, informing them that the arrears of the Civil List amounted to £513,000, and desiring their assistance to discharge it. After three days' warm debate the sum was voted without any inquiry as to the expenditure. The second application was in 1777, when another message was delivered to the House, desiring that he might be enabled to discharge debts to the amount of £600,000. In the debates that ensued, the accounts of the Civil List were rigorously canvassed, but such was the prevailing loyalty that not only was the required amount voted, but an addition of £100,000 made to the former grant of 800,000 a year. On presenting the Bill authorising this grant for the royal assent, Sir Fletcher Norton, the Speaker of the House of Commons, addressed his Majesty in the following spirited and dignified manner, for which the thanks of the House were voted to him. "In a time, Sire, of public distress, full of difficulty and danger, their constituents labouring under difficulties almost too heavy to be borne,

every attempt at economy by detail, under similar circumstances, and in every department. A complex, operose office, of account and control, is in itself, and even if members of Parliament had nothing to do with it, the most prodigal of all things. The most audacious robberies, or the most subtle frauds, would never venture upon such a waste, as an over-careful, detailed guard against them will infallibly produce. In our establishments, we frequently see an office of account, of a hundred pounds a year expense, and another office, of an equal expense, to control that office, and the whole upon a matter that is not worth twenty shillings.

"To avoid, therefore, this minute care which produces the consequences of the most extensive neglect, and to oblige members of parliament to attend to public cares, and not to the servile offices of domestic management, I propose, Sir, to *economise by principle;* that is, I propose to put affairs into that train, which experience points out as the most effectual, from the nature of things, and from the constitution of the human mind. In all dealings, where it is possible, the principles of radical economy prescribe three things: first, undertaking by the great; secondly, engaging with persons of skill in the subject matter; thirdly, engaging with all those who shall have an immediate and direct interest in the proper execution of the business.

"To avoid frittering and crumbling down the attention by a blind, unsystematic observance of every trifle, it has ever been found the best way, to do all things, which are great in the total amount, and minute in the component parts, by a *general contract.* The principles of trade have so pervaded every species of dealing, from the highest to the lowest objects; all transactions are got so much into system; that we may, at a moment's warning, and to a farthing value, be informed at what rate any service may be supplied. No dealing is exempt from the possibility of fraud. But by a contract on a matter certain, you have this advantage—you are sure to know the utmost extent of the fraud to which you are subject. By a contract with a person in his own trade, you are sure you shall not suffer by want of skill. By a short contract you are sure of making it the interest of the contractor to exert that skill for the satisfaction of his employers.

"I mean to derogate nothing from the diligence or integrity of the present, or of any former Board of Green Cloth. But what skill can members of Parliament obtain in that low kind of province? What skill can they have in the execution of that kind of duty? And if they should neglect it, how does it affect their interest, when we know that it is their vote in Parliament, and not their diligence in cookery or catering, that recommends them to their office, or keeps them in it?

your faithful Commons, postponing all other business, have not only granted to your Majesty a large present supply, but also a very great additional revenue—great beyond example, great beyond your Majesty's highest expense; but all this, Sire, they have done in a well-founded confidence that you will apply wisely what they have granted liberally; and feeling that under the direction of your Majesty's wisdom the affluence and grandeur of the Sovereign will reflect dignity and honour on his people."

"I therefore propose, that the King's tables (to whatever number of tables, or covers to each, he shall think proper to command) should be classed by the Steward of the Household, and should be contracted for, according to their rank, by the head or covers; that the estimate and circumstance of the contract should be carried to the Treasury to be approved: and that its faithful and satisfactory performance should be reported there, previous to any payment, that there, and there only, should the payment be made. I propose, that men should be contracted with only in their proper trade; and that no member of Parliament should be capable of such contract. By this plan, almost all the infinite offices under the Lord Steward may be spared; to the extreme simplification, and to the far better execution, of every one of his functions. The King of Prussia is so served. He is a great and eminent (though, indeed, a very rare) instance of the possibility of uniting in a mind of vigour and compass, an attention to minute objects, with the largest views and the most complicated plans. His tables are served by contract, and by the head. Let me say, that no prince can be ashamed to imitate the King of Prussia;* and particularly to learn in his school, when the problem is, 'The best manner of reconciling the state of a court with the support of war?' Other courts, I understand, have followed him with effect, and to their satisfaction.

"The same clue of principle leads us through the labyrinth of the other departments. What, Sir, is there in the office of the Great Wardrobe† (which has the care of the King's furniture) that may not be executed by the Lord Chamberlain himself? He has an honourable appointment; he has time sufficient to attend to the duty; and he has the Vice-Chamberlain to assist him. Why should not he deal also by contract for all things belonging to this office, and carry his estimates first, and his report of the execution in its proper time, for payment, directly to the Board of Treasury itself? By a simple operation (containing in it a treble control) the expenses of a department, which for naked walls, or walls hung with cobwebs, has in a few years cost the Crown £150,000, may at length hope for regulation. But, Sir, the office and its business are at variance. As it stands, it serves, not to furnish the palace with its hangings, but the Parliament with its dependent members.

"To what end, Sir, does the office of Removing Wardrobe serve at all? Why should a Jewel Office‡ exist, for the sole purpose of taxing the King's gifts of plate? Its object falls naturally within the Chamberlain's province; and ought to be under his care and inspection, without any fee. Why should an Office of the Robes exist, when that of Groom of the Stole is a sinecure, and that this is a proper object of his department?

"All these incumbrances, which are themselves nuisances, produce other incumbrances and other nuisances. For the payment of these useless establishments, there are no less than *three useless treasurers*; two to hold

* Frederic III., surnamed the Great.

† Abolished in 1782.

‡ Abolished in 1782.

a purse, and one to play with a stick. The Treasurer of the Household is a mere name. The Cofferer, and the Treasurer of the Chamber, receive and pay great sums, which it is not at all necessary they should either receive or pay. All the proper officers, servants, and tradesmen, may be enrolled in their several departments, and paid in proper classes and times with great simplicity and order, at the Exchequer, and by direction from the Treasury.

"The Board of Works,*—which, in the seven years preceding 1777, has cost towards £400,000, and, if I recollect rightly, has not cost less, in proportion, from the beginning of the reign,—is under the very same description of all the other ill-contrived establishments, and calls for the very same reform. We are to seek for the visible signs of all this expense.† For all this expense, we do not see a building of the size and importance of a pigeon-house. Buckingham-house was reprised by a bargain with the public, for £100,000; and the small house at Windsor has been, if I mistake not, undertaken since that account was brought before us. The good works of that Board of Works are as carefully concealed as other good works ought to be. They are perfectly invisible. But though it is the perfection of charity to be concealed, it is, Sir, the property and glory of magnificence, to appear and stand forward to the eye.

"That Board, which ought to be a concern of builders, and such like, and of none else, is turned into a junto of members of Parliament. That office, too, has a treasury and a paymaster of its own; and lest the arduous affairs of that important exchequer should be too fatiguing, that paymaster has a deputy to partake his profits and relieve his cares. I do not believe, that either now, or in former times, the chief managers of that Board have made any profit of its abuse. It is, however, no good reason that an abusive establishment should subsist, because it is of as little private, as of public, advantage. But this establishment has the grand radical fault, the original sin, that pervades and perverts all our establishments; the apparatus is not fitted to the object, nor the workmen to the work. Expenses are incurred on the private opinion of an inferior establishment, without consulting the principal; who can alone determine the proportion which it ought to bear to the other establishments of the state, in the order of their relative importance.

"I propose, therefore, along with the rest, to pull down this whole ill-contrived scaffolding, which obstructs, rather than forwards, our public works; to take away its Treasury; to put the whole into the hands of a real builder, who shall not be a member of Parliament; and to oblige him, by a previous estimate and final payment, to appear twice at the Treasury, before the public can be loaded. The King's gardens are to come under a similar regulation.

* Abolished in 1782.

† On the King's application to the Commons, in 1777, for payment of the deficiency in the Civil List, the item of £378,616 appeared in the accounts submitted to the House under the mere head of "Board of Works," without any specification of persons or purposes.

"The Mint, though not a department of the household, has the same vices. It is a great expense to the nation, chiefly for the sake of members of Parliament. It has its officers of parade and dignity. It has its treasury too. It is a sort of corporate body; and formerly was a body of great importance; as much so, on the then scale of things, and the then order of business, as the Bank is at this day. It was the great centre of money transactions and remittances for our own and for other nations; until King Charles I., among other arbitrary projects, dictated by despotic necessity, made him withhold the money that lay there for remittance. That blow (and happily too) the Mint never recovered. Now it is no bank; no remittance-shop. The Mint, Sir, is a manufacture, and it is nothing else; and it ought to be undertaken upon the principles of a manufacture; that is, for the best and cheapest execution, by a contract, upon proper securities, and under proper regulations.

"TheArtillery is a far greater object—it is a military concern; but having an affinity and kindred in its defects with the establishments I am now speaking of, I think it best to speak of it along with them. It is, I conceive, an establishment not well suited to its martial, though exceedingly well calculated for its parliamentary purposes. Here there is a treasury, as in all the other inferior departments of Government. Here the military is subordinate to the civil, and the naval confounded with the land service. The object, indeed, is much the same in both. But when the detail is examined, it will be found that they had better be separated. For a reform of this office, I propose to restore things to what (all considerations taken together) is their natural order; to restore them to their just proportion, and to their just distribution. I propose, in this military concern, to render the civil subordinate to the military; and this will annihilate the greatest part of the expense, and all the influence belonging to the office. I propose to send the military branch to the army, and the naval to the admiralty; and I intend to perfect and accomplish the whole detail (where it becomes too minute and complicated for legislature, and requires exact, official, military, and mechanical knowledge) by a commission of competent officers in both departments. I propose to execute by contract, what by contract can be executed, and to bring, as much as possible, all estimates to be previously approved, and finally to be paid by the treasury.

"Thus, by following the course of nature, and not the purposes of politics, or the accumulated patchwork of occasional accommodation, this vast expensive department may be methodised; its service proportioned to its necessities; and its payments subjected to the inspection of the superior minister of finance; who is to judge of it on the result of the total collective exigencies of the state. This last is a reigning principle through my whole plan; and it is a principle which I hope may hereafter be applied to other plans.

"By these regulations, taken together, besides the three subordinate treasuries in the lesser principalities, five other subordinate treasuries are

suppressed. There is taken away the whole *establishment of detail* in the household; the Treasurer; the Comptroller (for a comptroller is hardly necessary where there is no treasurer); the Cofferer of the Household; the Treasurer of the Chamber; the Master of the Household; the whole Board of Green Cloth; and a vast number of subordinate offices in the department of the Steward of the Household; the whole establishment of the Great Wardrobe; the Removing Wardrobe; the Jewel-office; the Robes; the Board of Works; almost the whole charge of the civil branch of the Board of Ordnance, are taken away. All these arrangements together will be found to relieve the nation from a vast weight of influence, without distressing, but rather by forwarding every public service. When something of this kind is done, then the public may begin to breathe. Under other governments, a question of expense is only a question of economy, and it is nothing more; with us, in every question of expense, there is always a mixture of constitutional considerations.

"It is, Sir, because I wish to keep this business of subordinate treasuries as much as I can together, that I brought the Ordnance-office before you, though it is properly a military department. For the same reason I will now trouble you with my thoughts and propositions upon two of the greatest under treasuries, I mean the office of Paymaster of the Land Forces, or Treasurer of the Army; and that of the Treasurer of the Navy. The former of these has long been a great object of public suspicion and uneasiness. Envy, too, has had its share in the obloquy which is cast upon this office. But I am sure that it has no share at all in the reflections I shall make upon it, or in the reformations that I shall propose. I do not grudge to the honourable gentleman who at present holds the office,* any of the effects of his talents, his merit, or his fortune. He is respectable in all these particulars: I follow the constitution of the office, without persecuting its holder. It is necessary, in all matters of public complaint, where men frequently feel right and argue wrong, to separate prejudice from reason; and to be very sure, in attempting the redress of a grievance, that we hit upon its real seat and its true nature. Where there is an abuse in office, the first thing that occurs in heat is to censure the officer. Our natural disposition leads all our inquiries rather to persons than to things. But this prejudice is to be corrected by maturer thinking.

"Sir, the profits of the Pay-office (as an office) are not too great, in my opinion, for its duties, and for the rank of the person who has generally held it. He has been generally a person of the highest rank; that is to say, a person of eminence and consideration in this House. The great and the invidious profits of the pay-office are from the *bank* that is held in it. According to the present course of the office, and according to the present mode of accounting there, this bank must necessarily exist somewhere. Money is a productive thing; and when the usual time of its demand can be

* Mr. Richard Rigby.

tolerably calculated, it may, with prudence, be safely laid out to the profit of the holder. It is on this calculation that the business of banking proceeds; but no profit can be derived from the use of money, which does not make it the interest of the holder to delay his account. The process of the exchequer colludes with this interest. Is this collusion from its want of rigour, and strictness, and great regularity of form? The reverse is true. They have in the Exchequer brought rigour and formalism to their ultimate perfection. The process against accountants is so rigorous, and in a manner so unjust, that correctives must, from time to time, be applied to it. These correctives being discretionary, upon the case, and generally remitted by the barons to the lords of the treasury, as the best judges of the reasons for respite, hearings are had, delays are produced, and thus the extreme of rigour in office (as usual in all human affairs) leads to the extreme of laxity. What with the interested slowness of the officer, the ill-conceived exactness of the court, the applications for dispensations from that exactness, the revival of rigorous process, after the expiration of the time; and the new rigours producing new applications, and new enlargements of time, such delays happen in the public accounts, that they can scarcely ever be closed.

"Besides, Sir, they have a rule in the Exchequer, which, I believe, they have founded upon a very ancient statute, that of the 51st of Henry III., by which it is provided, 'That when a sheriff or bailiff hath begun his account, none other shall be received to account, until he that was first appointed hath clearly accounted, and that the sum has been received.' Whether this clause of that statute be the ground of that absurd practice, I am not quite able to ascertain; but it has very generally prevailed, though, I am told, that of late they have begun to relax from it. In consequence of forms adverse to substantial account, we have a long succession of paymasters and their representatives, who have never been admitted to account, although perfectly ready to do so.

"As the extent of our wars has scattered the accountants under the paymaster into every part of the globe, the grand and sure paymaster, Death, in all his shapes, calls these accountants to another reckoning. Death, indeed, domineers over everything but the forms of the Exchequer: over these he has no power; they are impassive and immortal. The audit of the Exchequer, more severe than the audit to which the accountants are gone, demands proofs which, in the nature of things, are difficult, sometimes impossible to be had. In this respect, too, rigour, as usual, defeats itself. Then, the exchequer never gives a particular receipt, or clears a man of his account, as far as it goes. A final acquittance (or a *quietus*, as they term it) is scarcely ever to be obtained. Terrors and ghosts of unlaid accountants haunt the houses of their children from generation to generation. Families, in the course of succession, fall into minorities; the inheritance comes into the hands of females; and very perplexed affairs are often delivered over into the hands of negligent guardians and faithless stewards; so that the demand remains, when the advantage of the money is gone, if ever any advantage

at all has been made of it. This is a cause of infinite distress to families, and becomes a source of influence to an extent that can scarcely be imagined, but by those who have taken some pains to trace it. The mildness of government in the employment of useless and dangerous powers furnishes no reason for their continuance.

"As things stand, can you in justice (except, perhaps, in that over-perfect kind of justice, which has obtained by its merits the title of the opposite vice*) insist that any man should, by the course of his office, keep a *bank* from whence he is to derive no advantage? That a man should be subject to demands below, and be in a manner refused an acquittance above; that he should transmit an original sin, and inheritance of vexation to his posterity, without a power of compensating himself, in some way or other, for so perilous a situation? We know, that if the Paymaster should deny himself the advantages of his bank, the public, as things stand, is not the richer for it by a single shilling. This I thought it necessary to say, as to the offensive magnitude of the profits of this office, that we may proceed in reformation on the principles of reason, and not on the feelings of envy.†

"The Treasurer of the Navy is, *mutatis mutandis*, in the same circumstances: indeed, all accountants are. Instead of the present mode, which is troublesome to the officer and unprofitable to the public, I propose to substitute something more effectual than rigour, which is the worst exactor in the world. I mean to remove the very temptations to delay, to facilitate the account, and transfer this bank, now of private emolument, to the public. The Crown will suffer no wrong, at least, from the pay-offices; and its terrors will no longer reign over the families of those who hold or have held them. I propose, that these offices should be no longer *banks* or *treasuries*, but mere *offices of administration*. I propose, first, that the present Paymaster, and the Treasurer of the Navy, should carry into the Exchequer the whole body of the vouchers for what they have paid over to deputy paymasters, to regimental agents, or to any of those to whom they have, and ought to have, paid money. I propose that those vouchers shall be admitted as actual payments in their accounts; and that the persons to whom the money has been paid, shall then stand charged in the Exchequer in their place. After this process, they shall be debited or charged for nothing but the money-balance that remains in their hands.

"I am conscious, Sir, that if this balance (which they could not expect to be so suddenly demanded by any usual process of the Exchequer) should now be exacted all at once, not only their ruin, but a ruin of others, to an

* Summum jus summa injuria.

† The greatest credit was due to Mr. Burke for his own disinterested conduct on his appointment to the office of Paymaster of the Forces, under the Rockingham Administration, in 1782; for he immediately brought in a bill for its reform, by which the enormous profits, usually derived from the Office, were completely swept away, and thereby an annual saving to the public effected to the amount of £47,000; of which, not less than £25,300 were perquisites which all his predecessors had received.

extent which I do not like to think of, but which I can well conceive, and which you may well conceive, might be the consequence. I told you, Sir, when I promised, before the holidays, to bring in this plan, that I never would suffer any man, or description of men, to suffer from errors that naturally have grown out of the abusive constitution of those offices which I propose to regulate. If I cannot reform with equity, I will not reform at all.

"For the regulation of past accounts, I shall, therefore, propose such a mode as men, temperate and prudent, make use of in the management of their private affairs, when their accounts are various, perplexed, and of long standing. I would, therefore, after their example, divide the public debts into three sorts—good, bad, and doubtful. In looking over the public accounts, I should never dream of the blind mode of the Exchequer, which regards things in the abstract, and knows no difference in the quality of its debts, or the circumstances of its debtors. By this means it fatigues itself, it vexes others, it often crushes the poor, it lets escape the rich; or, in a fit of mercy or carelessness, declines all means of recovering its just demands. Content with the eternity of its claims, it enjoys its Epicurean divinity with Epicurean languor. But it is proper that all sorts of accounts should be closed some time or other—by payment, by composition, or by oblivion. *Expedit reipublicæ ut sit finis litium.* Constantly taking along with me, that an extreme rigour is sure to arm everything against it, and at length to relax into a supine neglect, I propose, Sir, that even the best, soundest, and most recent debts should be put into instalments, for the mutual benefit of the accountant and the public.

"In proportion, however, as I am tender of the past, I would be provident of the future. All money that was formerly imprested to the two great *pay-offices*, I would have imprested in future to the *Bank of England.* These offices should, in future, receive no more than cash sufficient for small payments; their other payments ought to be made by drafts on the Bank, expressing the service. A cheque account from both offices, of drafts and receipts, should be annually made up in the Exchequer, charging the Bank, in account, with the cash-balance, but not demanding the payment until there is an order from the Treasury, in consequence of a vote of Parliament.

"As I did not, Sir, deny to the Paymaster the natural profits of the bank that was in his hands, so neither would I to the Bank of England. A share of that profit might be derived to the public in various ways. My favourite mode is this: that, in compensation for the use of this money, the Bank may take upon themselves, first, *the charge of the Mint;* to which they are already, by their charter, obliged to bring in a great deal of bullion annually to be coined.

"In the next place, I mean that they should take upon themselves the charge of *remittances to our troops abroad.* This is a species of dealing from which, by the same charter, they are not debarred. One and a quarter per cent. will be saved instantly thereby to the public, on very large sums of money. This will be at once a matter of economy, and a considerable

reduction of influence, by taking away a private contract of an expensive nature. If the Bank, which is a great corporation, and of course receives the least profits from the money in their custody, should of itself refuse, or be persuaded to refuse this offer upon those terms, I can speak with some confidence, that one, at least, if not both, parts of the condition would be received, and gratefully received, by several bankers of eminence. There is no banker who will not be, at least, as good security as any Paymaster of the Forces, or any Treasurer of the Navy, that have ever been bankers to the public; as rich, at least, as my Lord Chatham, or my Lord Holland, or either of the honourable gentlemen who now hold the offices, were at the time that they entered into them; or as ever the whole establishment of the Mint has been at any period.

"These, Sir, are the outlines of the plan I mean to follow, in suppressing these two large subordinate treasuries. I now come to another subordinate treasury: I mean that of the Paymaster of the Pensions; for which purpose I re-enter the limits of the civil establishment. I departed from those limits in pursuit of a principle; and, following the same game in its doubles, I am brought into those limits again. That treasury and that office I mean to take away; and to transfer the payment of every name, mode, and denomination of pensions, to the Exchequer. The present course of diversifying the same object, can answer no good purpose: whatever its use may be to purposes of another kind. There are also other lists of pensions; and I mean that they should all be hereafter paid at one and the same place. The whole of that new consolidated list, I mean to reduce to £60,000 a-year, which sum I intend it shall never exceed. I think that sum will fully answer as a reward to all real merit, and a provision for all real public charity that is ever likely to be placed on the list. If any merit of an extraordinary nature should emerge, before that reduction is completed, I have left it open for an address of either House of Parliament to provide for the case. To all other demands, it must be answered, with regret, but with firmness, 'The public is poor.'

"I do not propose, as I told you before Christmas, to take away any pension. I know that the public seem to call for a reduction of such of them as shall appear unmerited. As a censorial act, and punishment of an abuse, it might answer some purpose. But this can make no part of *my* plan. I mean to proceed by bill; and I cannot stop for such an inquiry. I know some gentlemen may blame me. It is with great submission to better judgments, that I recommend it to consideration, that a critical retrospective examination of the pension list, upon the principle of merit, can never serve for my basis. It cannot answer, according to my plan, any effectual purpose of economy, or of future permanent reformation. The process, in any way, will be entangled and difficult; and it will be infinitely slow; there is a danger that if we turn our line of march, now directed towards the grand object, into this more laborious than useful detail of operations, we shall never arrive at our end.

"The King, Sir, has been, by the Constitution, appointed sole judge of the merit for which a pension is to be given. We have a right, undoubtedly, to canvass this, as we have to canvass every act of Government. But there is a material difference between an office to be reformed, and a pension taken away for demerit. In the former case, no charge is implied against the holder; in the latter, his character is slurred, as well as his lawful emolument affected. The former process is against the thing; the second, against the person. The pensioner certainly, if he pleases, has a right to stand in his own defence; to plead his possession; and to bottom his title in the competency of the Crown to give him what he holds. Possessed, and on the defensive, as he is, he will not be obliged to prove his special merit, in order to justify the act of legal discretion, now turned into his property, according to his tenure. The very act, he will contend, is a legal presumption, and an implication of his merit. If this be so (from the natural force of all legal presumption), he would put us to the difficult proof, that he has no merit at all. But other questions would arise in the course of such an inquiry; that is, questions of the merit, when weighed against the proportion of the reward; then the difficulty will be much greater.

"The difficulty will not, Sir, I am afraid, be much less, if we pass to the person really guilty, in the question of an unmerited pension: the Minister himself. I admit, that when called to account for the execution of a trust, he might fairly be obliged to prove the affirmative; and to state the merit for which the pension is given; though on the pensioner himself such a process would be hard. If, in this examination, we proceed methodically, and so as to avoid all suspicion of partiality and prejudice, we must take the pensions in order of time, or merely alphabetically. The very first pension to which we come, in either of these ways, may appear the most grossly unmerited of any. But the Minister may very possibly show, that he knows nothing of the putting on this pension—that it was prior in time to his administration—that the Minister who laid it on is dead; and then we are thrown back upon the pensioner himself, and plunged into all our former difficulties. Abuses, and gross ones I doubt not, would appear; and to the correction of which I would readily give my hand; but, when I consider that pensions have not generally been affected by the revolutions of ministry; as I know not where such inquiries would stop; and as an absence of merit is a negative and loose thing, one might be led to derange the order of families, founded on the probable continuance of their kind of income. I might hurt children; I might injure creditors. I really think it the more prudent course not to follow the letter of the petitions. If we fix this mode of inquiry as a basis, we shall, I fear, end as Parliament has often ended under similar circumstances. There will be great delay; much confusion; much inequality in our proceedings. But what presses me most of all is this: that though we should strike off all the unmerited pensions, while the power of the Crown remains unlimited, the very same undeserving persons might afterwards return to the very same list; or if they did not, other

persons, meriting as little as they do, might be put upon it to an undefinable amount. This, I think, is the pinch of the grievance.

" For these reasons, Sir, I am obliged to waive this mode of proceeding as any part of my plan. In a plan of reformation, it would be one of my maxims, that when I know of an establishment which may be subservient to useful purposes, and which, at the same time, from its discretionary nature, is liable to a very great perversion from those purposes, I would limit the quantity of the power that might be so abused. For I am sure, that in all such cases, the rewards of merit will have very narrow bounds; and that partial or corrupt favour will be infinite. This principle is not arbitrary; but the limitation of the specific quantity must be so in some measure. I therefore state £60,000; leaving it open to the House to enlarge or contract the sum as they shall see, on examination, that the discretion I use is scanty or liberal. The whole amount of the pensions of all denominations, which have been laid before us, amount, for a period of seven years, to considerably more than £100,000 a-year. To what the other lists amount I know not. That will be seen hereafter. But from those that do appear, a saving will accrue to the public, at one time or other, of £40,000 a-year, and we had better, in my opinion, let it fall in naturally, than to tear it crude and unripe from the stalk.

" There is a great deal of uneasiness among the people, upon an article which I must class under the head of pensions. I mean the *great Patent Offices in the Exchequer*. They are, in reality and substance, no other than pensions, and in no other light shall I consider them. They are sinecures. They are always executed by deputy. The duty of the principal is as nothing. They differ, however, from the pensions on the list, in some particulars. They are held for life. I think, with the public, that the profits of those places are grown enormous; the magnitude of those profits, and the nature of them, both call for reformation. The nature of their profits, which grow out of the public distress, is itself invidious and grievous. But I fear that reform cannot be immediate. I find myself under a restriction. These places, and others of the same kind, which are held for life, have been considered as property. They have been given as a provision for children; they have been the subject of family settlements; they have been the security of creditors. What the law respects shall be sacred to me. If the barriers of law should be broken down, upon ideas of convenience, even of public convenience, we shall have no longer anything certain among us. If the discretion of power is once let loose upon property, we can be at no loss to determine whose power, and what discretion it is that will prevail at last. It would be wise to attend upon the order of things; and not to attempt to outrun the slow but smooth and even course of nature. There are occasions, I admit, of public necessity, so vast, so clear, so evident, that they supersede all laws. Law being only made for the benefit of the community, cannot, in any one of its parts, resist a demand which may comprehend the total of the public interest. To be sure, no law can set itself up against the

cause and reason of all law. But such a case very rarely happens; and this most certainly is not such a case. The mere time of the reform is, by no means, worth the sacrifice of a principle of law. Individuals pass like shadows; but the commonwealth is fixed and stable. The difference, therefore, of to-day and to-morrow, which to private people is immense, to the State is nothing. At any rate, it is better, if possible, to reconcile our economy with our laws, than to set them at variance; a quarrel which, in the end, must be destructive to both.

"My idea, therefore, is to reduce those offices to fixed salaries, as the present lives and reversions shall successively fall. I mean, that the office of the Great Auditor (the Auditor of the Receipt) shall be reduced to £3,000 a-year; and the Auditors of the Imprest and the rest of the principal officers, to fixed appointments of £1,500 a-year each. It will not be difficult to calculate the value of this fall of lives to the public, when we shall have obtained a just account of the present income of those places; and we shall obtain that account with great facility, if the present possessors are not alarmed with any apprehension of danger to their freehold office.

"I know, too, that it will be demanded of me, how it comes, that since I admit these offices to be no better than pensions, I chose, after the principle of law had been satisfied, to retain them at all? To this, Sir, I answer, that conceiving it to be a fundamental part of the Constitution of this country, and of the reason of State in every country, that there must be means of rewarding public service, those means will be incomplete, and, indeed, wholly insufficient for that purpose, if there should be no further reward for that service than the daily wages it receives during the pleasure of the Crown.

"Whoever seriously considers the excellent argument of Lord Somers, in the Banker's Case,* will see he bottoms himself upon the very same maxim which I do; and one of his principal grounds of doctrine for the alienability of the domain in England† contrary to the maxim of the law in France, he lays in the constitutional policy, of furnishing a permanent reward to public service; of making that reward the origin of families, and the foundation of wealth as well as of honours. It is, indeed, the only genuine unadulterated origin of nobility. It is a great principle in government; a principle at the very foundation of the whole structure. The other judges who held the same doctrine, went beyond Lord Somers with regard to the remedy, which they thought was given by law against the Crown upon the grant of pensions. Indeed, no man knows, when he cuts off the incitements to a virtuous ambition, and the just rewards of public service, what infinite mischief he may do his country, through all generations. Such saving to the public may prove the worst mode of robbing it. The Crown, which has in its hands the trust of the daily pay for national service, ought to have in its hands also the means for the repose of public labour, and the fixed settle-

* See "Howell's State Trials," vol. xiv., p. 1.

† Before the statute of Queen Anne, which limited the alienation of land.

ment of acknowledged merit. There is a time when the weather-beaten vessels of the state ought to come into harbour. They must, at length, have a retreat from the malice of rivals, from the perfidy of political friends, and the inconstancy of the people. Many of the persons, who, in all times, have filled the great offices of State, have been younger brothers, who had originally little, if any, fortune. These offices do not furnish the means of amassing wealth. There ought to be some power in the Crown of granting pensions out of the reach of its own caprices. An entail of dependence is a bad reward of merit.

"I would therefore leave to the Crown the possibility of conferring some favours, which, while they are received as a reward, do not operate as corruption. When men receive obligations from the Crown through the pious hands of fathers, or of connexions as venerable as the paternal, the dependences which arise from thence are the obligations of gratitude, and not the fetters of servility. Such ties originate in virtue, and they promote it. They continue men in those habitudes of friendship, those political connexions, and those political principles in which they began life. They are antidotes against a corrupt levity, instead of causes of it. What an unseemly spectacle would it afford, what a disgrace would it be to the commonwealth that suffered such things, to see the hopeful son of a meritorious minister begging his bread at the door of that Treasury, from whence his father dispensed the economy of an empire, and promoted the happiness and glory of his country! Why should he be obliged to prostrate his honour, and to submit his principles at the levee of some proud favourite, shouldered and thrust aside by every impudent pretender, on the very spot where, a few days before, he saw himself adored?—obliged to cringe to the author of the calamities of his house, and to kiss the hands that are red with his father's blood?—No, Sir; these things are unfit—they are intolerable.

"Sir, I shall be asked, why I do not choose to destroy those offices which are pensions, and appoint pensions under the direct title in their stead? I allow that, in some cases, it leads to abuse, to have things appointed for one purpose, and applied to another. I have no great objection to such a change: but I do not think it quite prudent for me to propose it. If I should take away the present establishment, the burthen of proof rests upon me, that so many pensions, and no more, and to such an amount each, and no more, are necessary for the public service. This is what I can never prove; for it is a thing incapable of definition. I do not like to take away an object that I think answers my purpose, in hopes of getting it back again in a better shape. People will bear an old establishment when its excess is corrected, who will revolt at a new one. I do not think these office-pensions to be more in number than sufficient; but on that point the House will exercise its discretion. As to abuse, I am convinced, that very few trusts in the ordinary course of administration, have admitted less abuse than this. Efficient ministers have been their own paymasters. It is true. But their very partiality has operated as a kind of justice; and still it was

service that was paid. When we look over this Exchequer list, we find it filled with the descendants of the Walpoles, of the Pelhams, and of the Townshends; names to whom this country owes its liberties, and to whom his Majesty owes his crown. It was in one of these lines, that the immense and envied employment he now holds, came to a certain duke,* who is now, probably, sitting quietly at a very good dinner directly under us; and acting 'high life below stairs,' whilst we, his masters, are filling our mouths with unsubstantial sounds, and talking of hungry economy over his head. But he is the elder branch of an ancient and decayed house, joined to, and repaired by the reward of services done by another.† I respect the original title, and the first purchase of merited wealth and honour through all its descents, through all its transfers, and all its assignments. May such fountains never be dried up! May they ever flow with their original purity, and refresh and fructify the commonwealth, for ages!

"Sir, I think myself bound to give you my reasons as clearly, and as fully, for stopping in the course of reformation, as for proceeding in it. My limits are the rules of law; the rules of policy; and the service of the State. This is the reason why I am not able to intermeddle with another article, which seems to be a specific object in several of the petitions; I mean the reduction of exorbitant emoluments to efficient offices. If I knew of any real efficient office, which did possess exorbitant emoluments, I should be extremely desirous of reducing them. Others may know of them. I do not. I am not possessed of an exact common measure between real service and its reward. I am very sure, that states do sometimes receive services, which it is hardly in their power to reward according to their worth. If I were to give my judgment, with regard to this country, I do not think the great efficient offices of the State to be overpaid. The service of the public is a thing which cannot be put to auction, and struck down to those who will agree to execute it the cheapest. When the proportion between reward and service is our object, we must always consider of what nature the service is, and what sort of men they are that must perform it. What is just payment for one kind of labour, and full encouragement for one kind of talents, is fraud and discouragement to others. Many of the great offices have much duty to do, and much expense of representation to maintain. A Secretary

* The Duke of Newcastle, whose dining-room was under the House of Commons.

† The Duke of Newcastle traced his descent from the Clintons, who were illustrious in the time of Edward I.; John de Clinton having been summoned to Parliament by that monarch, as Baron Clinton. In Elizabeth's reign, Edward, the Ninth Baron Clinton, who had twice filled the office of Lord High Admiral, was created Earl of Lincoln; and this title regularly descended to Henry, the Ninth Earl; who having married the eldest daughter and heiress of the Right Honourable Henry Pelham, inherited the dukedom of Newcastle-under-Line, on the death of the Countess's uncle (who had been created Duke of Newcastle-under-Line, with special remainder to the Earl of Lincoln); and thus united the two titles. The Duke alluded to by Mr. Burke, was the son of the Second Duke of Newcastle, and father to the present Duke.

of State, for instance, must not appear sordid in the eyes of the ministers of other nations; neither ought our ministers abroad to appear contemptible in the courts where they reside. In all offices of duty, there is, almost necessarily, a great neglect of all domestic affairs. A person in high office can rarely take a view of his family-house. If he sees that the State takes no detriment, the State must see that his affairs should take as little.

"I will even go so far as to affirm, that if men were willing to serve in such situations without salary, they ought not to be permitted to do it. Ordinary service must be secured by the motives to ordinary integrity. I do not hesitate to say, that that state which lays its foundation in rare and heroic virtues, will be sure to have its superstructure in the basest profligacy and corruption. An honourable and fair profit is the best security against avarice and rapacity; as in all things else, a lawful and regulated enjoyment is the best security against debauchery and excess. For as wealth is power, so all power will infallibly draw wealth to itself by some means or other; and when men are left no way of ascertaining their profits but by their means of obtaining them, those means will be increased to infinity. This is true in all the parts of administration, as well as in the whole. If any individual were to decline his appointments, it might give an unfair advantage to ostentatious ambition over unpretending service; it might breed invidious comparisons; it might tend to destroy whatever little unity and agreement may be found among Ministers. And after all, when an ambitious man had run down his competitors by a fallacious show of disinterestedness, and fixed himself in power by that means, what security is there that he would not change his course, and claim as an indemnity ten times more than he has given up?

"This rule, like every other, may admit its exceptions. When a great man has some one great object in view, to be achieved in a given time, it may be absolutely necessary for him to walk out of all the common roads, and, if his fortune permits it, to hold himself out as a splendid example. I am told, that something of this kind is now doing in a country near us. But this is for a short race; the training for a heat or two, and not the proper preparation for the regular stages of a methodical journey. I am speaking of establishments, and not of men.

"It may be expected, Sir, that when I am giving my reasons why I limit myself in the reduction of employments, or of their profits, I should say something of those which seem of eminent inutility in the state; I mean the number of officers who by their places are attendant on the person of the King. Considering the commonwealth merely as such, and considering those officers only as relative to the direct purposes of the state, I admit that they are of no use at all. But there are many things in the constitution of establishments, which appear of little value on the first view, which, in a secondary and oblique manner, produce very material advantages. It was on full consideration that I determined not to lessen any of the offices of honour about the crown, in their number or their emoluments. These

emoluments, except in one or two cases, do not much more than answer the charge of attendance. Men of condition naturally love to be about a court; and women of condition love it much more. But there is in all regular attendance so much of constraint, that if it were a mere charge, without any compensation, you would soon have the court deserted by all the nobility of the kingdom.

"Sir, the most serious mischiefs would follow from such a desertion. Kings are naturally lovers of low company. They are so elevated above all the rest of mankind, that they must look upon all their subjects as on a level. They are rather apt to hate than to love their nobility, on account of the occasional resistance to their will, which will be made by their virtue, their petulance, or their pride. It must, indeed, be admitted, that many of the nobility are as perfectly willing to act the part of flatterers, tale-bearers, parasites, pimps, and buffoons, as any of the lowest and vilest of mankind can possibly be. But they are not properly qualified for this object of their ambition. The want of a regular education, and early habits, and some lurking remains of their dignity, will never permit them to become a match for an Italian eunuch, a mountebank, a fiddler, a player, or any regular practitioner of that tribe. The Roman emperors, almost from the beginning, threw themselves into such hands; and the mischief increased every day till its decline, and its final ruin. It is, therefore, of very great importance (provided the thing is not overdone), to contrive such an establishment as must, almost whether a prince will or not, bring into daily and hourly offices about his person, a great number of his first nobility; and it is rather a useful prejudice that gives them a pride in such a servitude. Though they are not much the better for a court, a court will be much the better for them. I have, therefore, not attempted to reform any of the offices of honour about the King's person.

"There are, indeed, two offices in his stables which are sinecures. By the change of manners, and indeed by the nature of the thing, they must be so; I mean the several keepers of buck-hounds, stag-hounds, fox-hounds, and harriers. They answer no purpose of utility or of splendour. These I propose to abolish. It is not proper that great noblemen should be keepers of dogs, though they were the King's dogs. In every part of my scheme I have endeavoured that no primary, and that even no secondary service of the state, should suffer by its frugality. I mean to touch no offices but such as I am perfectly sure are either of no use at all, or not of any use in the least assignable proportion to the burthen with which they load the revenues of the kingdom, and to the influence with which they oppress the freedom of Parliamentary deliberation; for which reason there are but two offices which are properly state offices, that I have a desire to reform.

"The first of them is the new office of third Secretary of State, which is commonly called Secretary of State for the Colonies.*

* Established in 1768, and first filled by the Earl of Hillsborough. The office is sometimes mentioned as Secretary of State for America.

"We know that all the correspondence of the colonies had been, until within a few years, carried on by the southern Secretary of State; and that this department has not been shunned upon account of the weight of its duties; but, on the contrary, much sought, on account of its patronage. Indeed, he must be poorly acquainted with the history of office, who does not know how very lightly the American functions have always leaned on the shoulders of the ministerial Atlas who has upheld that side of the sphere. Undoubtedly, great temper and judgment was requisite in the management of the colony politics; but the official detail was a trifle. Since the new appointment, a train of unfortunate accidents has brought before us almost the whole correspondence of this favourite secretary's office, since the first day of its establishment. I will say nothing of its auspicious foundation, of the quality of its correspondence, or of the effects that have ensued from it. I speak merely of its quantity; which we know would have been little or no addition to the trouble of whatever office had its hands the fullest. But what has been the real condition of the old office of Secretary of State? Have their velvet bags, and their red boxes, been so full, that nothing more could possibly be crammed into them?

"A correspondence of a curious nature has been lately published.* In that correspondence, Sir, we find the opinion of a noble person, who is thought to be the grand manufacturer of administrations, and, therefore, the best judge of the quality of his work. He was of opinion, that there was but one man of diligence and industry in the whole administration,—it was the late Earl of Suffolk. The noble lord lamented very justly, that this statesman, of so much mental vigour, was almost wholly disabled from the exertion of it, by his bodily infirmities. Lord Suffolk, dead to the state long before he was dead to nature, at last paid his tribute to the common treasury to which we must all be taxed. But so little want was found even of his intentional industry, that the office, vacant in reality to its duties long before, continued vacant even in nomination and appointment for a year after his death. The whole of the laborious and arduous correspondence of this empire, rested solely upon the activity and energy of Lord Weymouth.

"It is, therefore, demonstrable, since one diligent man was fully equal to the duties of the two offices, that two diligent men will be equal to the duty of three. The business of the new office which I shall propose to you to suppress, is by no means too much to be returned to either of the secretaries which remain. If this dust in the balance should be thought too heavy, it may be divided between them both; North America (whether free or reduced) to the northern secretary, the West Indies to the southern. It is not necessary that I should say more upon the inutility of this office. It is burning daylight. But before I have done, I shall just remark, that the history of this office is too recent to suffer us to forget, that it was made for

* Letters between Dr. Addington and Sir James Wright. See Annual Register for 1778, p. 244.

the mere convenience of the arrangements of political intrigue, and not for the service of the state; that it was made in order to give a colour to an exorbitant increase of the Civil List; and in the same act to bring a new accession to the loaded compost heap of corrupt influence.

"There is, Sir, another office, which was not long since closely connected with this of the American secretary; but has been lately separated from it for the very same purpose for which it had been conjoined; I mean the sole purpose of all the separations and all the conjunctions that have been lately made—a job. I speak, Sir, of the *board of trade and plantations*. This board is a sort of temperate bed of influence; a sort of gently-ripening hot-house, where eight members of Parliament receive salaries of a thousand a year, for a certain given time, for doing little, in order to mature, at a proper season, a claim to two thousand, to be granted for doing less, and on the credit of having toiled so long in that inferior laborious department.

"I have known that board, off and on, for a great number of years. Both of its pretended objects have been much the objects of my study, if I have a right to call any pursuits of mine by so respectable a name. I can assure the House,—and I hope they will not think that I risk my little credit lightly,—that, without meaning to convey the least reflection upon any one of its members, past or present, it is a board, which, if not mischievous, is of no use at all.

"You will be convinced, Sir, that I am not mistaken, if you reflect how generally it is true, that commerce, the principal object of that office, flourishes most when it is left to itself. Interest, the great guide of commerce, is not a blind one. It is very well able to find its own way; and its necessities are its best laws. But if it were possible, in the nature of things, that the young should direct the old, and the inexperienced instruct the knowing; if a board in the state was the best tutor for the counting-house; if the desk ought to read lectures to the anvil, and the pen to usurp the place of the shuttle;—yet in any matter of regulation, we know that board must act with as little authority as skill. The prerogative of the Crown is utterly inadequate to its object; because all regulations are, in their nature, restrictive of some liberty. In the reign, indeed, of Charles the First, the council, or committees of council, were never a moment unoccupied with affairs of trade. But even where they had no ill intention (which was sometimes the case) trade and manufacture suffered infinitely from their injudicious tampering. But since that period, whenever regulation is wanting (for I do not deny that sometimes it may be wanting) Parliament constantly sits; and Parliament alone is competent to such regulation. We want no instruction from boards of trade, or from any other board; and God forbid we should give the least attention to their reports. Parliamentary inquiry is the only mode of obtaining parliamentary information. There is more real knowledge to be attained by attending the detail of business in the committees above stairs, than ever did come, or ever will come, from any board in this kingdom, or from all of them together. An assiduous member of

Parliament will not be the worse instructed there, for not being paid a thousand a year for learning his lesson. And now that I speak of the committees above stairs, I must say, that having till lately attended them a good deal, I have observed that no description of members give so little attendance, either to communicate, or to obtain, instruction upon matters of commerce, as the honourable members of the grave Board of Trade. I really do not recollect, that I have ever seen one of them in that sort of business. Possibly, some members may have better memories; and may call to mind some job that may have accidentally brought one or other of them, at one time or other, to attend a matter of commerce.

"This board, Sir, has had both its original formation, and its regeneration, in a job. In a job it was conceived, and in a job its mother brought it forth. It made one among those showy and specious impositions, which one of the experiment-making administrations of Charles the Second held out to delude the people, and to be substituted in the place of the real service which they might expect from a Parliament annually sitting. It was intended, also, to corrupt that body whenever it should be permitted to sit. It was projected in the year 1668,* and it continued in a tottering and rickety childhood for about three or four years, for it died in the year 1673, a babe of as little hopes as ever swelled the bills of mortality in the article of convulsed or overlaid children, who have hardly stepped over the threshold of life.

"It was buried with little ceremony; and never more thought of, until the reign of King William, when, in the strange vicissitude of neglect and vigour, of good and ill success that attended his wars, in the year 1695, the trade was distressed beyond all example of former sufferings, by the piracies of the French cruisers. This suffering incensed, and, as it should seem, very justly incensed, the House of Commons. In this ferment they struck, not only at the Administration, but at the very constitution of the Executive Government. They attempted to form in Parliament a Board for the Protection of Trade; which, as they planned it, was to draw to itself a great part, if not the whole, of the functions and powers, both of the Admiralty and of the Treasury; and thus, by a parliamentary delegation of office and officers, they threatened absolutely to separate these departments from the whole system of the Executive Government, and, of course, to vest the most leading and essential of its attributes in this Board. As the Executive Government was in a manner convicted of a dereliction of its functions, it was with infinite difficulty that this blow was warded off in that session. There was a threat to renew the same attempt in the next. To prevent the effect of this manœuvre, the Court opposed another manœuvre to it; and, in the year 1696, called into life this Board of Trade, which had slept since 1673.

"This, in a few words, is the history of the regeneration of the Board of Trade. It has perfectly answered its purposes. It was intended to quiet

* It was established in 1670, and the Earl of Sandwich was made President.

the minds of the people, and to compose the ferment that then was strongly working in Parliament. The courtiers were too happy to be able to substitute a board which they knew would be useless, in the place of one that they feared would be dangerous. Thus the Board of Trade was reproduced in a job; and perhaps it is the only instance of a public body which has never degenerated, but to this hour preserves all the health and vigour of its primitive institution.

"This Board of Trade and Plantations has not been of any use to the colonies, as colonies; so little of use, that the flourishing settlements of New England, of Virginia, and of Maryland, and all our wealthy colonies in the West Indies, were of a date prior to the first board of Charles II.* Pennsylvania and Carolina were settled during its dark quarter,† in the interval between the extinction of the first, and the formation of the second board. Two colonies alone owe their origin to that board. Georgia,‡ which, till lately, has made a very slow progress; and never did make any progress at all until it had wholly got rid of all the regulations which the Board of Trade had moulded into its original constitution. That colony has cost the nation very great sums of money; whereas the colonies which have had the fortune of not being godfathered by the Board of Trade, never cost the nation a shilling, except what has been so properly spent in losing them. But the colony of Georgia, weak as it was, carried with it to the last hour, and carries even in its present pallid visage, the perfect resemblance of its parents. It always had, and it now has, an establishment paid by the public of England, for the sake of the influence of the Crown; that colony having never been able or willing to take upon itself the expense of its proper government, or its own appropriated jobs.

"The province of Nova Scotia was the youngest and the favourite child of the Board.§ Good God! What sums the nursing of that ill-thriven, hard-visaged, and ill-favoured brat has cost to this wittol nation! Sir, this colony has stood us in a sum of not less than £700,000. To this day it has made no repayment—it does not even support those offices of expense which are miscalled its government; the whole of that job still lies upon the patient, callous shoulders of the people of England.

"Sir, I am going to state a fact to you, that will serve to set in full sunshine the real value of formality and official superintendence. There was in the province of Nova Scotia one little neglected corner; the country of the *neutral French;* which having the good fortune to escape the fostering care

* First settlement in Virginia, in 1607; in New England, in 1620; in Maryland, in 1632.

† Pennsylvania, in 1681; Carolina, in 1680.

‡ Georgia was founded in 1732, by a private company, and received its name in honour of George II. In 1752 it became a Royal government; and, in 1755, a provincial legislature was established.

§ Nova Scotia was first settled by the French, in 1603; and, till 1712, it was alternately possessed by the French and English, when the latter became its permanent possessors.

both of France and England, and to have been shut out from the protection and regulation of councils of commerce, and of boards of trade, did, in silence, without notice, and without assistance, increase to a considerable degree. But, it seems, our nation had more skill and ability in destroying, than in settling, a colony. In the last war we did, in my opinion, most inhumanly, and upon pretences that, in the eye of an honest man, are not worth a farthing, root out this poor, innocent, deserving people, whom our utter inability to govern or to reconcile gave us no sort of right to extirpate. Whatever the merits of that extirpation might have been, it was on the footsteps of a neglected people, it was on the fund of unconstrained poverty, it was on the acquisitions of unregulated industry, that anything which deserves the name of a colony in that province has been formed. It has been formed by overflowings from the exuberant population of New England, and by emigration from other parts of Nova Scotia of fugitives from the protection of the Board of Trade.

"But, if all these things were not more than sufficient to prove to you the inutility of that expensive establishment, I would desire you to recollect, Sir, that those who may be very ready to defend it, are very cautious how they employ it even in appearance and pretence. They are afraid they should lose the benefit of its influence in Parliament, if they seemed to keep it up for any other purpose. If ever there were commercial points of great weight, and most closely connected with our dependencies, they are those which have been agitated and decided in Parliament since I came into it. Which of the innumerable regulations since made had their origin or their improvement in the Board of Trade? Did any of the several East India bills which have been successively produced since 1767, originate there? Did any one dream of referring them, or any part of them, thither? Was anybody so ridiculous as even to think of it? If ever there was an occasion on which the Board was fit to be consulted, it was with regard to the acts that were preludes to the American war, or attendant on its commencement: those acts were full of commercial regulations, such as they were:— the Intercourse Bill; the Prohibitory Bill; the Fishery Bill. If the Board was not concerned in such things, in what particular was it thought fit that it should be concerned? In the course of all these bills through the House, I observed the members of that Board to be remarkably cautious of intermeddling. They understood decorum better; they know that matters of trade and plantations are no business of theirs.

"There were two very recent occasions, which, if the idea of any use for the board had not been extinguished by prescription, appeared loudly to call for their interference.

"When commissioners were sent to pay his Majesty's and our dutiful respects to the Congress of the United States,* a part of their powers under

* On the arrival of the news of the surrender of General Burgoyne and his army to the Americans, and the conclusion of a treaty between the United States and France,

the commission were, it seems, of a commercial nature. They were authorised, in the most ample and undefined manner, to form a commercial treaty with America on the spot. This was no trivial object. As the formation of such a treaty would necessarily have been no less than the breaking up of our whole commercial system, and the giving it an entire new form; one would imagine, that the Board of Trade would have sat day and night, to model propositions, which, on our side, might serve as a basis to that treaty. No such thing. Their learned leisure was not in the least interrupted, though one of the members of the board was a commissioner, and might, in mere compliment to his office, have been supposed to make a show of deliberation on the subject. But he knew that his colleagues would have thought he laughed in their faces, had he attempted to bring anything the most distantly relating to commerce or colonies before *them*. A noble person, engaged in the same commission, and sent to learn his commercial rudiments in New York (then under the operation of an act for the universal prohibition of trade), was soon after put at the head of that board.* This contempt from the present Ministers of all the pretended functions of that board, and their manner of appointing to it the presiding commissioner, that is, the manner of breathing into that board its very soul, of inspiring it with its animating and presiding principle, puts an end to all dispute concerning their opinion of the clay it was made of. But I will give them heaped measure.

"It was but the other day, that the noble lord in the blue ribbon carried up to the House of Peers two acts, altering, I think much for the better, but altering, in a great degree, our whole commercial system.† These acts, I mean, for giving a free trade to Ireland in woollens and in all things else, with independent nations, and giving them an equal trade to our own colonies. Here, too, the novelty of this great, but arduous and critical improvement of system, would make you conceive that the anxious solicitude of the noble lord in the blue ribbon would have wholly destroyed the plan of

Ministers were overwhelmed with dismay, and, as a last resort, Lord North, in February, 1778, introduced two conciliatory bills, by which he proposed to concede to them all they had in vain demanded before their Declaration of Independence in 1776. After some animated debates, these bills passed both Houses, and, having received the royal assent, Lord Carlisle, Mr. Eden, and Governor Johnstone were despatched as commissioners, and arrived at New York in June, and immediately attempted to negotiate with the Congress. Their offers were, however, deemed insidious and unsatisfactory, and they received an official communication from President Laurens, apprising them that the Americans were determined to maintain their independence, but were willing to treat for peace on condition of the British land and sea forces being withdrawn from America.

* Lord Carlisle.

† Three acts had been passed in December, 1779, at the instance of Lord North, for the relief of Ireland, conceding to that country a free export of wool, woollens, and wool flocks; of glass, with all kinds of glass manufactures, and a free trade with the British Plantations on certain conditions, the basis of which was an equality of taxes and customs.

summer recreation of that board, by references to examine, compare, and digest matters for Parliament. You would imagine, that Irish commissioners of customs, and English commissioners of customs, and commissioners of excise, that merchants and manufacturers of every denomination had daily crowded their outer rooms. *Nil horum.* The perpetual virtual adjournment, and the unbroken sitting vacation of that board, was no more disturbed by the Irish than by the plantation commerce, or any other commerce. The same matter made a large part of the business which occupied the House for two sessions before;* and as our Ministers were not then mellowed by the mild, emollient, and engaging blandishments of our dear sister, into all the tenderness of unqualified surrender, the bounds and limits of a restrained benefit naturally required much detailed management and positive regulation. But neither the qualified propositions which were received, nor those other qualified propositions which were rejected by Ministers, were the least concern of the Board of Trade, or were they ever thought of in the business.

" It is, therefore, Sir, on the opinion of Parliament, on the opinion of the Ministers, and even on their own opinion of their inutility, that I shall propose to you to suppress *the Board of Trade and Plantations;* and to recommit all its business to the council from whence it was very improvidently taken; and which business (whatever it might be) was much better done and without any expense; and, indeed, where in effect it may all come at last. Almost all that deserves the name of business there, is the reference of the plantation acts to the opinion of gentlemen of the law. But all this may be done, as the Irish business of the same nature has always been done, by the council, and with a reference to the Attorney and Solicitor-General.

" There are some regulations in the household relative to the officers of the yeomen of the guards, and the officers and band of gentlemen pensioners, which I shall likewise submit to your consideration, for the purpose of regulating establishments which at present are much abused.

" I have now finished all that for the present I shall trouble you with, on the *plan of reduction.* I mean next to propose to you the *plan of arrangement*, by which I mean to appropriate and fix the Civil List money to its several services according to their nature; for I am sensible, that if a discretion, wholly arbitrary, can be exercised over the Civil List revenue, although the most effectual methods may be taken to prevent the inferior departments from exceeding their bounds, the plan of reformation will still be left very imperfect. It will not, in my opinion, be safe to permit an entirely arbitrary discretion even in the First Lord of the Treasury himself: it will

* It was Mr. Burke's support to these bills for the revision of the Irish Trade Laws in 1778 that offended his Bristol constituents, who considered that their own trade would suffer in consequence. Although both sides of the House seemed disposed to approve these bills, the clamour of interested persons out of the House prevailed, and the bills passed in a modified form, many advantages proposed for Ireland being abandoned.

not be safe to leave with him a power of diverting the public money from its proper objects, of paying it in an irregular course, or of inverting, perhaps, the order of time dictated by the proportion of value, which ought to regulate his application of payment to service.

"I am sensible, too, that the very operation of a plan of economy which tends to exonerate the Civil List of expensive establishments, may in some sort defeat the capital end we have in view, the independence of Parliament; and that in removing the public and ostensible means of influence, we may increase the fund of private corruption. I have thought of some methods to prevent an abuse of surplus cash under discretionary application; I mean the heads of *secret service*, *special service*, *various payments*, and the like; which, I hope, will answer, and which, in due time, I shall lay before you. Where I am unable to limit the quantity of the sums to be applied, by reason of the uncertain quantity of the service, I endeavour to confine it to its *line;* to secure an indefinite application to the definite service to which it belongs; not to stop the progress of expense in its line, but to confine it to that line in which it professes to move.

"But that part of my plan, Sir, upon which I principally rest, that on which I rely for the purpose of binding up and securing the whole, is to establish a fixed and invariable order in all its payments, which it shall not be permitted to the First Lord of the Treasury, upon any pretence whatsoever, to depart from. I therefore divide the civil list payments into *nine* classes, putting each class forward according to the importance or justice of the demand, and to the inability of the persons entitled to enforce their pretensions; that is, to put those first who have the most efficient offices, or claim the justest debts; and, at the same time, from the character of that description of men, from the retiredness or the remoteness of their situation, or from their want of weight and power to enforce their pretensions, or from their being entirely subject to the power of a minister, without any reciprocal power of awing him, ought to be the most considered, and are the most likely to be neglected; all these I place in the highest classes: I place in the lowest those whose functions are of the least importance, but whose persons or rank are often of the greatest power and influence.

"In the first class I place the judges, as of the first importance. It is the public justice that holds the community together; the ease, therefore, and independence of the judges, ought to supersede all other considerations, and they ought to be the very last to feel the necessities of the state, or to be obliged either to court or bully a minister for their right: they ought to be as weak solicitors on their own demands, as strenuous assertors of the rights and liberties of others. The judges are, or ought to be, of a reserved and retired character, and wholly unconnected with the political world.

"In the second class, I place the foreign ministers. The judges are the links of our connexions with one another; the foreign ministers are the links of our connexion with other nations. They are not upon the spot to demand payment, and are therefore the most likely to be, as in fact they have

sometimes been, entirely neglected, to the great disgrace, and perhaps the great detriment of the nation.

" In the third class, I would bring all the tradesmen who supply the Crown by contract or otherwise.

" In the fourth class, I place all the domestic servants of the King, and all persons in efficient offices, whose salaries do not exceed two hundred pounds a year.

" In the fifth, upon account of honour, which ought to give place to nothing but charity and rigid justice, I would place the pensions and allowances of his Majesty's royal family, comprehending of course the Queen, together with the stated allowance of the privy purse.

" In the sixth class, I place these efficient offices of duty, whose salaries may exceed the sum of two hundred pounds a year.

" In the seventh class, that mixed mass, the whole pension list.

" In the eighth, the offices of honour about the King.

" In the ninth and the last of all, the salaries and pensions of the first Lord of the Treasury himself, the Chancellor of the Exchequer, and the other Commissioners of the Treasury.

" If by any possible mismanagement of that part of the revenue which is left at discretion, or by any other mode of prodigality, cash should be deficient for the payment of the lowest classes, I propose that the amount of those salaries where the deficiency may happen to fall, shall not be carried as debt to the account of the succeeding year, but that it shall be entirely lapsed, sunk, and lost; so that Government will be enabled to start in the race of every new year, wholly unloaded, fresh in wind and in vigour. Hereafter, no Civil List debt can ever come upon the public. And those who do not consider this as saving, because it is not a certain sum, do not ground their calculations of the future on their experience of the past.

" I know of no mode of preserving the effectual execution of any duty, but to make it the direct interest of the executive officer that it shall be faithfully performed. Assuming, then, that the present vast allowance to the Civil List is perfectly adequate to all its purposes, if there should be any failure, it must be from the mismanagement or neglect of the first commissioner of the Treasury: since, upon the proposed plan, there can be no expense of any consequence, which he is not himself previously to authorise and finally to control. It is therefore just, as well as politic, that the loss should attach upon the delinquency.

" If the failure from the delinquency should be very considerable, it will fall on the class directly above the first Lord of the Treasury, as well as upon himself and his board. It will fall, as it ought to fall, upon offices of no primary importance in the state; but then it will fall upon persons whom it will be a matter of no slight importance for a minister to provoke—it will fall upon persons of the first rank and consequence in the kingdom; upon those who are nearest to the King, and frequently have a more interior credit with him than the Minister himself. It will fall upon masters of the horse, upon

lord chamberlains, upon lord stewards, upon grooms of the stole, and lords of the bedchamber. The household troops form an army, who will be ready to mutiny for want of pay, and whose mutiny will be *really* dreadful to a commander-in-chief. A rebellion of the thirteen lords of the bedchamber would be far more terrible to a minister, and would probably affect his power more to the quick, than a revolt of thirteen colonies. What an uproar such an event would create at court! What petitions, and committees, and associations would it not produce! Bless me! what a clattering of white sticks and yellow sticks would be about his head—what a storm of gold keys would fly about the ears of the minister—what a shower of Georges, and Thistles, and medals, and collars of S.S. would assail him at his first entrance into the ante-chamber, after an insolvent Christmas quarter! A tumult which could not be appeased by all the harmony of the new year's ode. Rebellion it is certain there would be; and rebellion may not now, indeed, be so critical an event to those who engage in it, since its price is so correctly ascertained;—ascertained at just a thousand pounds.

"Sir, this classing, in my opinion, is a serious and solid security for the performance of a minister's duty. Lord Coke says, that the staff was put into the treasurer's hand, to enable him to support himself when there was no money in the exchequer, and to beat away importunate solicitors. The method which I propose, would hinder him from the necessity of such a broken staff to lean on, or such a miserable weapon for repulsing the demands of worthless suitors, who, the noble lord in the blue ribbon knows, will bear many hards blows on the head, and many other indignities, before they are driven from the treasury. In this plan, he is furnished with an answer to all their importunity; an answer far more conclusive, than if he had knocked them down with his staff—'Sir, (or my lord,) you are calling for my own salary—Sir, you are calling for the appointments of my colleagues who sit about me in office—Sir, you are going to excite a mutiny at court against me—you are going to estrange his Majesty's confidence from me through the chamberlain, or the master of the horse, or the groom of the stole.'

"As things now stand, every man, in proportion to his consequence at court, tends to add to the expenses of the Civil List, by all manner of jobs, if not for himself, yet for his dependants. When the new plan is established, those who are now suitors for jobs, will become the most strenuous opposers of them. They will have a common interest with the minister in public economy. Every class, as it stands low, will become security for the payment of the preceding class; and thus the persons, whose insignificant services defraud those that are useful, would then become interested in their payment. Then the powerful, instead of oppressing, would be obliged to support the weak; and idleness would become concerned in the reward of industry. The whole fabric of the civil economy would become compact and connected in all its parts; it would be formed into a well-organised body, where every member contributes to the support of the whole; and where even the lazy stomach secures the vigour of the active arm.

"This plan, I really flatter myself, is laid, not in official formality, nor in airy speculation, but in real life, and in human nature, in what 'comes home (as Bacon says) to the business and bosoms of men.' You have now, Sir, before you, the whole of my scheme, as far as I have digested it into a form, that might be in any respect worthy of your consideration. I intend to lay it before you in five bills.* The plan consists, indeed, of many parts; but they stand upon a few plain principles. It is a plan which takes nothing from the Civil List without discharging it of a burthen equal to the sum carried to the public service. It weakens no one function necessary to Government; but, on the contrary, by appropriating supply to service, it gives it greater vigour. It provides the means of order and foresight to a minister of finance, which may always keep all the objects of his office, and their state, condition, and relations, distinctly before him. It brings forward accounts without hurrying and distressing the accountants; whilst it provides for public convenience, it regards private rights. It extinguishes secret corruption almost to the possibility of its existence. It destroys direct and visible influence equal to the offices of, at least, fifty members of Parliament. Lastly, it prevents the provision for his Majesty's children from being diverted to the political purposes of his minister.

"These are the points on which I rely for the merit of the plan: I pursue economy in a secondary view, and only as it is connected with these great objects. I am persuaded, that even for supply, this scheme will be far from unfruitful, if it be executed to the extent I propose it. I think it will give to the public, at its periods, two or three hundred thousand pounds a-year; if not, it will give them a system of economy, which is itself a great revenue. It gives me no little pride and satisfaction, to find that the principles of my proceedings are, in many respects, the very same with those which are now pursued in the plans of the French Minister of Finance. I am sure that I lay before you a scheme easy and practicable in all its parts. I know it is common at once to applaud and to reject all attempts of this nature. I know it is common for men to say, that such and such things are perfectly right—very desirable; but that, unfortunately, they are not practicable. Oh! no, Sir, no. Those things which are not practicable, are not desirable. There is nothing in the world really beneficial, that does not lie within the reach of an informed understanding and a well-directed pursuit. There is nothing that God has judged good for us, that he has not given us the means to accomplish, both in the natural and moral world. If we cry, like children, for the moon, like children we must cry on.

"We must follow the nature of our affairs, and conform ourselves to our situation. If we do, our objects are plain and compassable. Why should we resolve to do nothing, because what I propose to you may not be the exact demand of the petition; when we are far from resolved to comply even with what evidently is so? Does this sort of chicanery become us? The people are the masters. They have only to express their wants at large

* Titles of the bills read.

and in gross. We are the expert artists; we are the skilful workmen, to shape their desires into perfect form, and to fit the utensil to the use. They are the sufferers, they tell the symptoms of the complaint; but we know the exact seat of the disease, and how to apply the remedy, according to the rules of art. How shocking would it be to see us pervert our skill into a sinister and servile dexterity, for the purpose of evading our duty, and defrauding our employers, who are our natural lords, of the object of their just expectations. I think the whole not only practicable, but practicable in a very short time. If we are in earnest about it, and if we exert that industry and those talents in forwarding the work, which I am afraid may be exerted in impeding it, I engage that the whole may be put in complete execution within a year. For my own part, I have very little to recommend me for this, or for any task, but a kind of earnest and anxious perseverance of mind, which, with all its good and all its evil effects, is moulded into my constitution. I faithfully engage to the House, if they choose to appoint me to any part in the execution of this work (which, when they have made it theirs by the improvements of their wisdom, will be worthy of the able assistance they may give me), that by night and by day, in town or in country, at the desk or in the forest, I will, without regard to convenience, ease, or pleasure, devote myself to their service, not expecting or admitting any reward whatsoever. I owe to this country my labour, which is my all; and I owe to it ten times more industry, if ten times more I could exert. After all, I shall be an unprofitable servant.

"At the same time, if I am able, and if I shall be permitted, I will lend an humble helping hand to any other goodwork which is going on. I have not, Sir, the frantic presumption to suppose that this plan contains in it the whole of what the public has a right to expect, in the great work of reformation they call for. Indeed, it falls infinitely short of it. It falls short, even, of my own ideas. I have some thoughts not yet fully ripened, relative to a reform in the Customs and Excise, as well as in some other branches of financial administration. There are other things, too, which form essential parts in a great plan for the purpose of restoring the independence of Parliament. The Contractors' Bill of last year, it is fit to revive; and I rejoice that it is in better hands than mine. The bill for Suspending the Votes of Custom House Officers, brought into Parliament several years ago, by one of our worthiest and wisest members* (would to God we could, along with the plan, revive the person who proposed it). But a man of very real integrity, honour, and ability will be found to take his place, and to carry his idea into full execution. You all see how necessary it is to review our military expenses for some years past, and, if possible, to bind up and close that bleeding artery of profusion; but that business also, I have reason to hope, will be undertaken by abilities that are fully adequate to it. Something must be devised, if possible, to check the ruinous expense of elections.

* W. Dowdeswell, Esq., Chancellor of the Exchequer, 1765.

"Sir, all or most of these things must be done. Every one must take his part.

"If we should be able, by dexterity, or power, or intrigue, to disappoint the expectations of our constituents, what will it avail us? we shall never be strong or artful enough to parry, or to put by, the irresistible demands of our situation. That situation calls upon us, and upon our constituents too, with a voice which *will* be heard. I am sure no man is more zealously attached than I am to the privileges of this House, particularly in regard to the exclusive management of money. The Lords have no right to the disposition, in any sense, of the public purse; but they have gone further in self-denial than our utmost jealousy could have required.* A power of examining accounts, to censure, correct, and punish, we never, that I know of, have thought of denying to the House of Lords. It is something more than a century since we voted that body useless: they have now voted themselves so. The whole hope of reformation is at length cast upon *us;* and let us not deceive the nation, which does us the honour to hope everything from our virtue. If *all* the nation are not equally forward to press this duty upon us, yet, be assured that they all equally expect we should perform it. The respectful silence of those who wait upon your pleasure ought to be as powerful with you as the call of those who require your service as their right. Some, without doors, affect to feel hurt for your dignity, because they suppose that menaces are held out to you. Justify their good opinion, by showing that no menaces are necessary to stimulate you to your duty. But, Sir, whilst we may sympathise with them in one point who sympathise with us in another, we ought to attend no less to those who approach us like men, and who, in the guise of petitioners, speak to us in the tone of a concealed authority. It is not wise to force them to speak out more plainly what they plainly mean. But the petitioners are violent! Be it so; those who are least anxious about your conduct are not those who love you most. Moderate affection and satiated enjoyment are cold and respectful; but an ardent and injured passion is tempered up with wrath, and grief, and shame, and conscious worth, and the maddening sense of violated right. A jealous love lights his torch from the firebrands of the Furies. They who call upon you to belong wholly to the people, are those who wish you to return to your proper home; to the sphere of your duty, to the post of your honour, to the mansion-house of all genuine, serene, and solid satisfaction. We have furnished to the people of England (indeed we have) some real cause of jealousy. Let us leave that sort of company which, if it does not destroy our innocence, pollutes our honour: let us free ourselves at once from everything that can increase their suspicions and inflame their just resentment: let us cast away from us, with a generous scorn, all the love-tokens and symbols that we have been vain and light

* In the debate on the rejection of Lord Shelburne's motion in the House of Lords. See "New Parliamentary History," vol. xx., p. 1318.

enough to accept; all the bracelets, and snuff-boxes, and miniature-pictures, and hair-devices, and all the other adulterous trinkets that are pledges of our alienation and the monuments of our shame; let us return to our legitimate home, and all jars and quarrels will be lost in embraces; let the Commons in Parliament assembled be one and the same thing with the Commons at large; the distinctions that are made to separate us are unnatural and wicked contrivances; let us identify, let us incorporate ourselves with the people; let us cut all the cables, and snap the chains which tie us to an unfruitful shore, and enter the friendly harbour, that shoots far out into the main its moles and jetties to receive us. 'War with the world, and peace with our constituents.' Be this our motto and our principle. Then, indeed, we shall be truly great. Respecting ourselves, we shall be respected by the world. At present all is troubled, and cloudy, and distracted, and full of anger and turbulence, both abroad and at home; but the air may be cleared by this storm, and light and fertility may follow it. Let us give a faithful pledge to the people, that we honour, indeed, the Crown, but that we *belong* to them; that we are their auxiliaries, and not their task-masters; the fellow-labourers in the same vineyard, not lording over their rights, but helpers of their joy: that to tax them is a grievance to ourselves, but to cut off from our enjoyments to forward theirs is the highest gratification we are capable of receiving. I feel, with comfort, that we are all warmed with these sentiments, and while we are thus warm, I wish we may go directly and with a cheerful heart to this salutary work.

" Sir, I move for leave to bring in a bill 'For the Better Regulation of his Majesty's Civil Establishments, and of certain Public Offices; for the Limitation of Pensions, and the Suppression of sundry useless, expensive, and inconvenient Places; and for Applying the Moneys saved thereby to the Public Service.' "

The motion was seconded by Mr. Fox, and leave was given to Mr. Burke to bring in the bills, except that which related to the Duchy of Cornwall; which was withdrawn for the time. The bills were subsequently introduced, but rejected.

Speech to the Electors of Bristol, 6th September, 1780.

In the course of Mr. Burke's parliamentary exertions for the six years that he represented Bristol, he had the misfortune to shock in many instances the political and commercial, as well as the religious prejudices of his constituents, particularly by his support of certain resolutions favourable to the trade of Ireland; by his mode of proceeding on Lord Beauchamp's bill for reforming the law process concerning imprisonment; by his votes on the Popery acts; and by his not visiting the city more frequently than he did. It is probable that his written and printed defences of his political conduct would have softened the asperity of some of the prejudices; but the frantic tumults about

Popery, in the year 1780, kindled a blaze which it was not in the power of his eloquence to extinguish. A proclamation for dissolving the Parliament, and for calling a new one, having been issued on the 1st of September, Mr. Burke repaired to Bristol with all possible dispatch; but previously to his making any trial of his strength against three candidates who had started before him, he entered into the following justification of his public conduct in a speech addressed to a numerous meeting of the freemen, convened by the mayor at the Guildhall, on the 6th of September :—

"Mr. Mayor and Gentlemen,—

"I am extremely pleased at the appearance of this large and respectable meeting. The steps I may be obliged to take will want the sanction of a considerable authority; and in explaining anything which may appear doubtful in my public conduct, I must naturally desire a very full audience.

"I have been backward to begin my canvass. The dissolution of the Parliament was uncertain; and it did not become me, by an unseasonable importunity, to appear diffident of the fact of my six years' endeavour to please you. I had served the city of Bristol honourably; and the city of Bristol had no reason to think, that the means of honourable service to the public were become indifferent to me.

"I found, on my arrival here, that three gentlemen had been long in eager pursuit of an object which but two of us can obtain. I found, that they had all met with encouragement. A contested election in such a city as this is no light thing. I paused on the brink of the precipice. These three gentlemen, by various merits, and on various titles, I made no doubt were worthy of your favour. I shall never attempt to raise myself by depreciating the merits of my competitors. In the complexity and confusion of these cross pursuits, I wished to take the authentic public sense of my friends upon a business of so much delicacy. I wished to take your opinion along with me; that if I should give up the contest at the very beginning, my surrender of my post may not seem the effect of inconstancy, or timidity, or anger, or disgust, or indolence, or any other temper unbecoming a man who has engaged in the public service. If, on the contrary, I should undertake the election, and fail of success, I was full as anxious, that it should be manifest to the whole world, that the peace of the city had not been broken by my rashness, presumption, or fond conceit of my own merit.

"I am not come by a false and counterfeit show of deference to your judgment, to seduce it in my favour. I ask it seriously and unaffectedly. If you wish that I should retire I shall not consider that advice as a censure upon my conduct, or an alteration in your sentiments; but as a rational submission to the circumstances of affairs. If, on the contrary, you should think it proper for me to proceed on my canvass, if you will risk the trouble on your part, I will risk it on mine. My pretensions are such as you cannot be ashamed of, whether they succeed or fail.

"If you call upon me, I shall solicit the favour of the city upon manly

ground. I come before you with the plain confidence of an honest servant in the equity of a candid and discerning master. I come to claim your approbation, not to amuse you with vain apologies, or with professions still more vain and senseless. I have lived too long to be served by apologies or to stand in need of them. The part I have acted has been in open day; and to hold out to a conduct which stands in that clear and steady light for all its good and all its evil, to hold out to that conduct the paltry winking tapers of excuses and promises,—I never will do it. They may obscure it with their smoke; but they never can illumine sunshine by such a flame as theirs.

"I am sensible that no endeavours have been left untried to injure me in your opinion. But the use of character is to be a shield against calumny. I could wish undoubtedly, (if idle wishes were not the most idle of all things,) to make every part of my conduct agreeable to every one of my constituents. But in so great a city, and so greatly divided as this, it is weak to expect it.

"In such a discordancy of sentiments, it is better to look to the nature of things than to the humours of men. The very attempt towards pleasing everybody discovers a temper always flashy, and often false and insincere. Therefore, as I have proceeded straight onward in my conduct, so I will proceed in my account of those parts of it which have been most excepted to. But I must first beg leave just to hint to you, that we may suffer very great detriment by being open to every talker. It is not to be imagined, how much of service is lost from spirits full of activity, and full of energy, who are pressing, who are rushing forward, to great and capital objects, when you oblige them to be continually looking back. Whilst they are defending one service, they defraud you of a hundred. Applaud us when we run; console us when we fall; cheer us when we recover; but let us pass on,—for God's sake, let us pass on.

"Do you think, Gentlemen, that every public act in the six years since I stood in this place before you—that all the arduous things which have been done in this eventful period, which has crowded into a few years' space the revolutions of an age, can be opened to you on their fair grounds in half an hour's conversation?

"But it is no reason, because there is a bad mode of inquiry, that there should be no examination at all. Most certainly it is our duty to examine; it is our interest too;—but it must be with discretion; with an attention to all the circumstances, and all the motives; like sound judges, and not like cavilling pettifoggers and quibbling pleaders, prying into flaws and hunting for exceptions. Look, Gentlemen, to the whole tenor of your member's conduct. Try whether his ambition or his avarice have justled him out of the straight line of duty; or whether that grand foe of the offices of active life, that master-vice in men of business, a degenerate and inglorious sloth, has made him flag and languish in his course? This is the object of our inquiry. If our member's conduct can bear this touch, mark it for sterling. He may have fallen into errors; he must have faults; but our error is greater, and our fault is radically ruinous to ourselves, if we do not bear, if we do not even applaud,

the whole compound and mixed mass of such a character. Not to act thus is folly—I had almost said it is impiety. He censures God, who quarrels with the imperfections of man.

" Gentlemen, we must not be peevish with those who serve the people. For none will serve us whilst there is a court to serve, but those who are of a nice and jealous honour. They who think everything, in comparison of that honour, to be dust and ashes, will not bear to have it soiled and impaired by those, for whose sake they make a thousand sacrifices to preserve it immaculate and whole. We shall either drive such men from the public stage, or we shall send them to the court for protection; where, if they must sacrifice their reputation, they will at least secure their interest. Depend upon it, that the lovers of freedom will be free. None will violate their conscience to please us, in order afterwards to discharge that conscience which they have violated, by doing us faithful and affectionate service. If we degrade and deprave their minds by servility, it will be absurd to expect that they who are creeping and abject towards us, will ever be bold and incorruptible assertors of our freedom, against the most seducing and the most formidable of all powers. No! human nature is not so formed, nor shall we improve the faculties, or better the morals of public men, by our possession of the most infallible receipt in the world for making cheats and hypocrites.

" Let me say with plainness, I who am no longer in a public character, that if by a fair, by an indulgent, by a gentlemanly behaviour to our representatives, we do not give confidence to their minds, and a liberal scope to their understandings; if we do not permit our members to act upon a *very* enlarged view of things; we shall at length infallibly degrade our national representation into a confused and scuffling bustle of local agency. When the popular member is narrowed in his ideas, and rendered timid in his proceedings, the service of the Crown will be the sole nursery of statesmen. Among the frolics of the Court it may at length take that of attending to its business. Then the monopoly of mental power will be added to the power of all other kinds it possesses. On the side of the people there will be nothing but impotence: for ignorance is impotence; narrowness of mind is impotence; timidity is itself impotence, and makes all other qualities that go along with it, impotent and useless.

" At present it is the plan of the Court to make its servants insignificant. If the people should fall into the same humour, and should choose their servants on the same principles of mere obsequiousness, and flexibility, and total vacancy or indifference of opinion in all public matters, then no part of the State will be sound; and it will be in vain to think of saving it.

" I thought it very expedient at this time to give you this candid counsel, and with this counsel I would willingly close, if the matters, which at various times have been objected to me in this city, concerned only myself, and my own election. These charges, I think, are four in number:—my neglect of a due attention to my constituents, the not paying more frequent visits here; my conduct on the affairs of the first Irish Trade Acts; my opinion and mode

of proceeding on Lord Beauchamp's debtors' bill; and my votes on the late affairs of the Roman Catholics. All of these (except, perhaps, the first) relate to matters of very considerable public concern; and it is not lest you should censure me improperly, but lest you should form improper opinions on matters of some moment to you, that I trouble you at all upon the subject. My conduct is of small importance.

"With regard to the first charge, my friends have spoken to me of it in the style of amicable expostulation; not so much blaming the thing, as lamenting the effects. Others, less partial to me, were less kind in assigning the motives. I admit, there is a decorum and propriety in a member of Parliament's paying a respectful court to his constituents. If I were conscious to myself that pleasure or dissipation, or low unworthy occupations, had detained me from personal attendance on you, I would readily admit my fault, and quietly submit to the penalty. But, Gentlemen, I live at a hundred miles' distance from Bristol; and at the end of the Session I come to my own house, fatigued in body and in mind, to a little repose, and to a very little attention to my family and my private concerns. A visit to Bristol is always a sort of canvass; else it will do more harm than good. To pass from the toils of a Session to the toils of a canvass is the furthest thing in the world from repose. I could hardly serve you *as I have done*, and court you too. Most of you have heard, that I do not remarkably spare myself in *public* business; and in the *private* business of my constituents, I have done very near as much as those who have nothing else to do. My canvass of you was not on the 'Change, nor in the county meetings, nor in the clubs of this city; it was in the House of Commons; it was at the Custom-house; it was at the council; it was at the Treasury; it was at the Admiralty.* I canvassed you through your affairs, and not your persons. I was not only your representative as a body; I was the agent, the solicitor of individuals; I ran about wherever your affairs could call me; and in acting for you I often appeared rather as a ship-broker, than as a member of Parliament. There was nothing too laborious or too low for me to undertake. The meanness of the business was raised by the dignity of the object. If some lesser matters have slipped through my fingers, it was because I filled my hands too full; and, in my eagerness to serve you, took in more than any hands could grasp. Several gentlemen stand round me who are my willing witnesses; and there are others who, if they were here, would be still better, because they would be unwilling witnesses to the same truth. It was in the middle of a summer residence in London, and in the middle of a negotiation at the Admiralty for your trade, that I was called to Bristol; and this late visit, at this day, has been possibly in prejudice to your affairs.

"Since I have touched upon this matter, let me say, Gentlemen, that if I had a disposition or a right to complain, I have some cause of complaint on

* It will be remembered that Mr. Burke was put in nomination for Bristol without any solicitation on his part; in fact, he did not know of it until he had actually been elected for Malton, and was returning thanks on the occasion.

my side. With a petition of this city in my hand, passed through the corporation without a dissenting voice, a petition in unison with almost the whole voice of the kingdom (with whose formal thanks I was covered over) while I laboured on no less than five bills for a public reform,* and fought against the opposition of great abilities, and of the greatest power, every clause and every word of the largest of those bills almost to the very last day of a very long Session; all this time a canvass in Bristol was as calmly carried on as if I were dead. I was considered as a man wholly out of the question. Whilst I watched, and fasted, and sweated in the House of Commons—by the most easy and ordinary arts of election, by dinners and visits, by 'How do you do's,' and 'My worthy friends,' I was to be quietly moved out of my seat—and promises were made, and engagements entered into, without any exception or reserve, as if my laborious zeal in my duty had been a regular abdication of my trust.

"To open my whole heart to you on this subject, I do confess, however, that there were other times, besides the two years in which I did visit you, when I was not wholly without leisure for repeating that mark of my respect. But I could not bring my mind to see you. You remember, that in the beginning of this American war (that era of calamity, disgrace, and downfall, an era which no feeling mind will ever mention without a tear for England) you were greatly divided; and a very strong body, if not the strongest, opposed itself to the madness which every art and every power were employed to render popular, in order that the errors of the rulers might be lost in the general blindness of the nation. This opposition continued till after our great, but most unfortunate victory at Long Island.† Then all the mounds and banks of our constancy were borne down at once; and the frenzy of the American war broke in upon us like a deluge. This victory, which seemed to put an immediate end to all difficulties, perfected us in that spirit of domination, which our unparalleled prosperity had but too long nurtured. We had been so very powerful and so very prosperous, that even the humblest of us were degraded into the vices and follies of kings. We lost all measure between means and ends; and our headlong desires became our politics and our morals. All men who wished for peace, or retained any sentiments of moderation, were overborne or silenced; and this city was led by every artifice (and probably with the more management, because I was one of your members) to distinguish itself by its zeal for that fatal cause. In this temper of yours and of my mind, I should have sooner fled to the extremities of the earth, than have shown myself here.‡ I, who saw in every American victory (for you have had a long series of these misfortunes) the germ and seed of

* See Speech on moving for the introduction of these bills, *ante*, p. 579.

† In August, 1776, the British forces being under the command of Generals Clinton, Percy, and Cornwallis. They followed up their success in September, by the occupation of New York, which Washington was forced to abandon.

‡ Mr. Burke, however, published, in 1779, a defence of his conduct on the American Question, in the form of a Letter to the Sheriffs of Bristol.

the naval power of France and Spain, which all our heat and warmth against America was only hatching into life,—I should not have been a welcome visitant with the brow and the language of such feelings. When afterwards, the other face of your calamity was turned upon you, and showed itself in defeat and distress, I shunned you full as much. I felt surely this variety in our wretchedness; and I did not wish to have the least appearance of insulting you with that show of superiority, which, though it may not be assumed, is generally suspected in a time of calamity, from those whose previous warnings have been despised. I could not bear to show you a representative whose face did not reflect that of his constituents; a face that could not joy in your joys, and sorrow in your sorrows. But time at length has made us all of one opinion; and we have all opened our eyes on the true nature of the American war, to the true nature of all its successes and all its failures.

"In that public storm, too, I had my private feelings. I had seen blown down and prostrate on the ground several of those houses to whom I was chiefly indebted for the honour this city has done me. I confess that whilst the wounds of those I loved were yet green, I could not bear to show myself in pride and triumph in that place into which their partiality had brought me, and to appear at feasts and rejoicings, in the midst of the grief and calamity of my warm friends, my zealous supporters, my generous benefactors. This is a true, unvarnished, undisguised state of the affair. You will judge of it.

"This is the only one of the charges in which I am personally concerned. As to the other matters objected against me, which in their turn I shall mention to you, remember once more I do not mean to extenuate or excuse. Why should I, when the things charged are among those upon which I found all my reputation? What would be left to me, if I myself was the man who softened, and blended, and diluted, and weakened all the distinguishing colours of my life, so as to leave nothing distinct and determinate in my whole conduct?

"It has been said, and it is the second charge, that in the questions of the Irish trade, I did not consult the interest of my constituents, or, to speak out strongly, that I rather acted as a native of Ireland, than as an English member of Parliament.

"I certainly have very warm good wishes for the place of my birth. But the sphere of my duties is in my true country. It was as a man attached to your interests, and zealous for the conservation of your power and dignity, that I acted on that occasion, and on all occasions. You were involved in the American war. A new world of policy was opened, to which it was necessary that we should conform, whether we would or not; and my only thought was how to conform to our situation in such a manner as to unite to this kingdom, in prosperity and in affection, whatever remained of the empire. I was true to my old, standing, invariable principle, that all things, which came from Great Britain, should issue as a gift of her bounty and beneficence, rather than as claims recovered against a struggling litigant; or, at least, that

if your benevolence obtained no credit in your concessions, yet that they should appear the salutary provisions of your wisdom and foresight; not as things wrung from you with your blood, by the cruel gripe of a rigid necessity. The first concessions, by being (much against my will) mangled and stripped of the parts which were necessary to make out their just correspondence and connexion in trade, were of no use.* The next year a feeble attempt was made to bring the thing into better shape. This attempt (countenanced by the Minister) on the very first appearance of some popular uneasiness, was, after a considerable progress through the House, thrown out by *him*.†

"What was the consequence? The whole kingdom of Ireland was instantly in a flame. Threatened by foreigners, and, as they thought, insulted by England, they resolved at once to resist the power of France, and to cast off yours. Forty thousand men were raised and disciplined without commission from the Crown. Two illegal armies were seen with banners displayed at the same time and in the same country. No executive magistrate, no judicature, in Ireland, would acknowledge the legality of the army which bore the King's commission; and no law, or appearance of law, authorised the army commissioned by itself. In this unexampled state of things, which the least error, the least trespass on the right or left, would have hurried down the precipice into an abyss of blood and confusion, the people of Ireland demand a freedom of trade with arms in their hands. They interdict all commerce between the two nations. They deny all new supply in the House of Commons, although in time of war. They stint the trust of the old revenue, given for two years to all the king's predecessors, to six months.† The British Parliament, in a former Session, frightened into a limited concession

* In consequence of the severe distress in Ireland, arising from the stoppage of exports during the American war, Lord Nugent, in April, 1778, proposed in the House several resolutions for the relief of that country, which were adopted. The object of these resolutions was to allow the Irish to send on board of British vessels to the coast of Africa and other foreign settlements, all home manufactures, with the exception of wool and woollen cloth; to import direct all goods and merchandise being the produce of British plantations, except tobacco, and to concede to them several other commercial privileges. The merchants of Bristol and Liverpool, and the Lancashire and Nottingham manufacturers, becoming alarmed, created a strong opposition, and caused petitions against the proposed concessions to be poured in from all parts of the country; and the result was, that, although Ireland derived some advantage as regarded her linen, and African, and West Indian trade, the influence of the interested parties in England deprived her of most of the proposed privileges. Mr. Burke warmly advocated the cause of Ireland, lamenting, at the same time, that his conscience compelled him to oppose the wishes of his constituents.

† Early in the Session of 1779, Lord Nugent again brought the distressed state of Ireland before Parliament, and gave notice of motion for the establishment of a cotton manufactory in that country, with a power of exportation to Great Britain, and an open trade to America, the West Indies, and Africa: but, in consequence of the renewed opposition of the merchants of several of the large commercial towns, the proposed measures were abandoned, and, in their stead, acts were passed for a pecuniary grant,

by the menaces of Ireland, frightened out of it by the menaces of England, were now frightened back again, and made an universal surrender of all that had been thought the peculiar, reserved, uncommunicable rights of England; —the exclusive commerce of America, of Africa, of the West Indies—all the enumerations of the acts of navigation—all the manufactures—iron, glass, even the last pledge of jealousy and pride, the interest hid in the secret of our hearts, the inveterate prejudice moulded into the constitution of our frame, even the sacred fleece, all went together. No reserve; no exception; no debate; no discussion. A sudden light broke in upon us all. It broke in, not through well-contrived and well-disposed windows, but through flaws and breaches; through the yawning chasms of our ruin. We were taught wisdom by humiliation. No town in England presumed to have a prejudice; or dared to mutter a petition. What was worse, the whole Parliament of England, which retained authority for nothing but surrenders, was despoiled of every shadow of its superintendence. It was, without any qualification, denied in theory, as if it had been trampled upon in practice. This scene of shame and disgrace has, in a manner, whilst I am speaking, ended by the perpetual establishment of a military power in the dominions of this Crown without consent of the British legislature,* contrary to the policy of the constitution, contrary to the declaration of right: and, by this, your liberties are swept away along with your supreme authority—and both, linked together from the beginning, have, I am afraid, both together perished for ever.

"What! Gentlemen, was I not to foresee, or foreseeing, was I not to endeavour to save you from all these multiplied mischiefs and disgraces? Would the little, silly, canvass prattle of obeying instructions, and having no opinions but yours, and such idle senseless tales, which amuse the vacant ears of unthinking men, have saved you from 'the pelting of the pitiless storm,'

and for the encouragement of the Irish trade in some minor points. Indignant at such injustice, many of the Irish towns adopted the system of the Americans, and refused to import or use any British goods which could be produced at home. But what most tended to procure a relief from the restrictions imposed on her trade, was the powerful attitude which Ireland assumed when, being threatened with a foreign invasion, her whole population, capable of bearing arms, formed into volunteer regiments for the protection of the country, under the sanction of Government, as mentioned *ante*, note, p. 429. The demands of the Irish for redress were then urged with increased energy; and, backed as they were by a formidable physical power, under the perfect control of their political leaders, they received more attention; and Lord North introduced the three bills for the relief of Ireland, which passed into Acts without delay, by which the trade of that country was put on an equal footing with England, as mentioned, *ante*, note, p. 625.

* In the same year (1779) in which the trade of Ireland was thrown open, the Irish Parliament required that their military forces should be regulated by laws of their own country, and transmitted a bill for an Irish mutiny law to be substituted for the English one, which then prevailed. On this occasion Lord North introduced an alteration, by which the law was to be rendered perpetual, and the bill was passed in this form by the Irish Parliament.

to which the loose improvidence, the cowardly rashness of those who dare not look danger in the face, so as to provide against it in time, and therefore throw themselves headlong into the midst of it, have exposed this degraded nation, beat down and prostrate on the earth, unsheltered, unarmed, unresisting? Was I an Irishman on that day, that I boldly withstood our pride? or on the day that I hung down my head, and wept in shame and silence over the humiliation of Great Britain? I became unpopular in England for the one, and in Ireland for the other. What then? What obligation lay on me to be popular? I was bound to serve both kingdoms. To be pleased with my service was their affair, not mine.

"I was an Irishman in the Irish business, just as much as I was an American, when, on the same principles, I wished you to concede to America, at a time when she prayed concession at our feet. Just as much was I an American, when I wished Parliament to offer terms in victory, and not to wait the hour of defeat, for making good, by weakness and by supplication, a claim of prerogative, pre-eminence, and authority.

"Instead of requiring it from me as a point of duty, to kindle with your passions, had you all been as cool as I was, you would have saved disgraces and distresses that are unutterable. Do you remember our commission?* We sent out a solemn embassy across the Atlantic Ocean, to lay the Crown, the Peerage, the Commons of Great Britain, at the feet of the American Congress. That our disgrace might want no sort of brightening and burnishing; observe who they were that composed this famous embassy. My Lord Carlisle is among the first ranks of our nobility. He is the identical man who, but two years before, had been put forward, at the opening of a session in the House of Lords, as the mover of a haughty and rigorous address against America.† He was put in the front of the Embassy of Submission. Mr. Eden‡ was taken from the office of Lord Suffolk, to whom he was then Under-Secretary of State; from the office of that Lord Suffolk who, but a few weeks before, in his place in Parliament, did not deign to inquire where a congress of vagrants was to be found. This Lord Suffolk sent Mr. Eden to find these vagrants, without knowing where this King's generals were to be found, who were joined in the same commission of supplicating those whom they were sent to subdue. They enter the capital of America only to abandon it; and these assertors and representatives of the dignity of England, at the tail of a flying army, let fly their Parthian shafts of memorials and remonstrances at random behind them. Their promises and their offers, their flatteries and their menaces, were all despised; and we were saved the disgrace of their formal reception, only

* See note, *ante*, p. 624.

† On the meeting of Parliament, in October, 1777, Lord Carlisle moved the address in the House of Lords, which, as usual, was an echo of the King's Speech, in which his Majesty stated his determination to persevere in reducing the Americans, who had declared their independence, to obedience.

‡ Afterwards Lord Auckland.

because the Congress scorned to receive them; whilst the State-house of Independent Philadelphia opened her doors to the public entry of the Ambassador of France.* From war and blood we went to submission; and from submission plunged back again to war and blood; to desolate and be desolated, without measure, hope, or end. I am a royalist—I blushed for this degradation of the Crown. I am a whig—I blushed for the dishonour of Parliament. I am a true Englishman—I felt to the quick for the disgrace of England. I am a man—I felt for the melancholy reverse of human affairs, in the fall of the first power in the world.

"To read what was approaching in Ireland, in the black and bloody characters of the American war, was a painful, but it was a necessary part of my public duty. For, Gentlemen, it is not your fond desires, nor mine, that can alter the nature of things; by contending against which, what have we got, or ever shall get, but defeat and shame? I did not obey your instructions. No; I conformed to the instructions of truth and nature, and maintained your interest, against your opinions, with a constancy that became me. A representative worthy of you ought to be a person of stability. I am to look, indeed, to your opinions; but to such opinions as you and I *must* have five years hence. I was not to look to the flash of the day. I knew that you chose me, in my place, along with others, to be a pillar of the State, and not a weather-cock on the top of the edifice, exalted for my levity and versatility, and of no use but to indicate the shiftings of every fashionable gale. Would to God, the value of my sentiments on Ireland and on America had been at this day subject of doubt and discussion! No matter what my sufferings had been, so that this kingdom had kept the authority I wished it to maintain, by a grave foresight, and by an equitable temperance in the use of its power.

"The next article of charge on my public conduct, and that which I find rather the most prevalent of all, is Lord Beauchamp's bill. I mean his bill of last session, for reforming the law-process concerning imprisonment. It is said, to aggravate the offence, that I treated the petition of this city with contempt even in presenting it to the House, and expressed myself in terms of marked disrespect. Had this latter part of the charge been true, no merits on the side of the question which I took could possibly excuse me. But I am incapable of treating this city with disrespect. Very fortunately, at this minute, (if my bad eye-sight does not deceive me,) the worthy gentleman† deputed on this business, stands directly before me. To him I appeal, whether I did not, though it militated with my oldest and most recent public opinions, deliver the petition with a strong and more than usual recommendation to the consideration of the House, on account of the

* The capture of the British army under General Burgoyne decided the policy of France; and on the 6th of February, 1778, Louis XVI. acknowledged and guaranteed the Independence of the United States, a treaty of alliance and commerce was entered into; and M. Gerard was sent to Philadelphia as ambassador.

† Mr. Williams.

character and consequence of those who signed it. I believe the worthy gentleman will tell you that, the very day I received it, I applied to the Solicitor, now the Attorney-general, to give it an immediate consideration; and he most obligingly and immediately consented to employ a great deal of his very valuable time to write an explanation of the bill. I attended the Committee with all possible care and diligence, in order that every objection of yours might meet with a solution, or produce an alteration. I entreated your learned Recorder (always ready in business in which you take a concern) to attend. But what will you say to those who blame me for supporting Lord Beauchamp's bill, as a disrespectful treatment of your petition, when you hear, that out of respect to you, I myself was the cause of the loss of that very bill? for the noble lord who brought it in, and who, I must say, has much merit for this and some other measures, at my request consented to put it off for a week, which the Speaker's illness lengthened to a fortnight; and then the frantic tumult about popery drove that and every rational business from the House. So that, if I chose to make a defence of myself, on the little principles of a culprit pleading in his exculpation, I might not only secure my acquittal, but make merit with the opposers of the bill. But I shall do no such thing. The truth is, that I did occasion the loss of the bill, and by a delay caused by my respect to you. But such an event was never in my contemplation. And I am so far from taking credit for the defeat of that measure, that I cannot sufficiently lament my misfortune, if but one man, who ought to be at large, has passed a year in prison by my means. I am a debtor to the debtors. I confess judgment. I owe what, if ever it be in my power, I shall most certainly pay,—ample atonement and usurious amends to liberty and humanity for my unhappy lapse. For, Gentlemen, Lord Beauchamp's bill was a law of justice and policy, as far as it went; I say as far as it went, for its fault was its being, in the remedial part, miserably defective.

"There are two capital faults in our law with respect to civil debts. One is, that every man is presumed solvent—a presumption, in innumerable instances, directly against truth. Therefore the debtor is ordered, on a supposition of ability and fraud, to be coerced his liberty until he makes payment. By this means, in all cases of civil insolvency, without a pardon from his creditor, he is to be imprisoned for life; and thus a miserable mistaken invention of artificial science operates to change a civil into a criminal judgment, and to scourge misfortune or indiscretion with a punishment which the law does not inflict on the greatest crimes.

"The next fault is, that the inflicting of that punishment is not on the opinion of an equal and public judge, but is referred to the arbitrary discretion of a private, an interested, and irritated individual. He, who formally is, and substantially ought to be, the judge, is, in reality, no more than ministerial, a mere executive instrument of a private man, who is at once judge and party. Every idea of judicial order is subverted by this procedure. If the insolvency be no crime, why is it punished by arbitrary imprisonment?

If it be a crime, why is it delivered into private hands to pardon without discretion, or to punish without mercy, and without measure?

"To these faults, gross and cruel faults in our law, the excellent principle of Lord Beauchamp's bill applied some sort of remedy. I know that credit must be preserved; but equity must be preserved too; and it is impossible that anything should be necessary to commerce, which is inconsistent with justice. The principles of credit were not weakened by that bill. God forbid! The enforcement of that credit was only put into the same public judicial hands on which we depend for our lives, and all that makes life dear to us. But, indeed, this business was taken up too warmly both here and elsewhere. The bill was extremely mistaken. It was supposed to enact what it never enacted; and complaints were made of clauses in it, as novelties, which existed before the noble lord that brought in the bill was born. There was a fallacy that ran through the whole of the objections. The gentlemen, who opposed the bill, always argued, as if the option lay between that bill and the ancient law. But this is a grand mistake. For practically the option is between, not that bill and the old law, but between that bill and those occasional laws called acts of grace. For the operation of the old law is so savage, and so inconvenient to society, that for a long time past, once in every Parliament, and lately twice, the Legislature has been obliged to make a general arbitrary jail-delivery, and at once to set open, by its sovereign authority, all the prisons in England.

"Gentlemen, I never relished acts of grace, nor ever submitted to them but from despair of better. They are a dishonourable invention, by which, not from humanity, not from policy; but merely because we have not room enough to hold these victims of the absurdity of our laws, we turn loose upon the public three or four thousand naked wretches, corrupted by the habits, debased by the ignominy, of a prison. If the creditor had a right to those carcasses as a natural security for his property, I am sure we have no right to deprive of that security. But if a few pounds of flesh were not necessary to his security, we had not a right to detain the unfortunate debtor, without any benefit at all to the person who confined him. Take it as you will, we commit injustice. Now, Lord Beauchamp's bill intended to do deliberately, and with great caution and circumspection, upon each several case, and with all attention to the just claimant, what acts of grace do in a much greater measure, and with very little care, caution, and deliberation.

"I suspect that here, too, if we contrive to oppose this bill, we shall be found in a struggle against the nature of things. For as we grow enlightened, the public will not bear, for any length of time, to pay for the maintenance of whole armies of prisoners, nor, at their own expense, submit to keep jails as a sort of garrisons, merely to fortify their absurd principle of making men judges in their own cause. For credit has little or no concern in this cruelty. I speak in a commercial assembly. You know that credit is given, because a capital *must* be employed; that men calculate the

chances of insolvency; and they either withhold the credit, or make the debtor pay the risk in the price. The counting-house has no alliance with the jail. Holland understands trade as well as we; and she has done more than this obnoxious bill intended to do. There was not, when Mr. Howard* visited Holland, more than one prisoner for debt in the great city of Rotterdam. Although Lord Beauchamp's act (which was previous to this bill, and intended to feel the way for it) has already preserved liberty to thousands; and though it is not three years since the last act of grace passed, yet, by Mr. Howard's last account, there were near three thousand again in jail. I cannot name this gentleman without remarking, that his labours and writings have done much to open the eyes and hearts of mankind. He has visited all Europe,—not to survey the sumptuousness of palaces, or the stateliness of temples; not to make accurate measurements of the remains of ancient grandeur, nor to form a scale of the curiosity of modern art; not to collect medals, or to collate manuscripts;—but to dive into the depths of dungeons; to plunge into the infection of hospitals; to survey the mansions of sorrow and pain; to take the gauge and dimensions of misery, depression, and contempt; to remember the forgotten, to attend to the neglected, to visit the forsaken, and to compare and collate the distresses of all men in all countries. His plan is original; and it is as full of genius as it is of humanity. It was a voyage of discovery; a circumnavigation of charity. Already the benefit of his labour is felt more or less in every country; I hope he will anticipate his final reward, by seeing all its effects fully realised in his own. He will receive, not by retail, but in gross, the reward of those who visit the prisoner; and he has so forestalled and monopolized this branch of charity, that there will be, I trust, little room to merit by such acts of benevolence hereafter.

"Nothing now remains to trouble you with, but the fourth charge against me—the business of the Roman Catholics.† It is a business closely connected with the rest. They are all on one and the same principle. My little scheme of conduct, such as it is, is all arranged. I could do nothing but what I have done on this subject, without confounding the whole train of my ideas, and

* The celebrated philanthropist. He was born at Hackney, in 1726. In 1773, he served the office of Sheriff of Bedfordshire; which, bringing to his notice the privation which prisoners endure, he visited most of the jails in England, and afterwards throughout Europe, in order to devise means for their relief. In 1774 he was examined before the House of Commons on the subject of prison discipline, and received the thanks of the House for the information he afforded. He died at Cherson, in the Crimea, in 1790, from fever caught when ministering to a sick person. A statue in honour of his memory was erected in St. Paul's Cathedral.

† Mr. Burke had supported Sir George Savile's Act for the relief of the Roman Catholics from the pains and penalties they were liable to, by the old Act of King William III., 1699; and it will be remembered that the professed object of the Gordon riots which raged in London, in 1780, was the repeal of this New Toleration Act. See Introduction to Lord Erskine's Speech in defence of Lord George Gordon, *ante*, p. 264.

disturbing the whole order of my life. Gentlemen, I ought to apologize to you, for seeming to think anything at all necessary to be said upon this matter. The calumny is fitter to be scrawled with the midnight chalk of incendiaries, with 'No popery,' on the walls and doors of devoted houses, than to be mentioned in any civilized company. I had heard, that the spirit of discontent on that subject was very prevalent here. With pleasure I find that I have been grossly misinformed. If it exists at all in this city, the laws have crushed its exertions, and our morals have shunned its appearance in day-light. I have pursued this spirit wherever I could trace it; but it still fled from me. It was a ghost which all had heard of, but none had seen. None would acknowledge that he thought the public proceeding with regard to our Catholic dissenters to be blameable; but several were sorry it had made an ill impression upon others, and that my interest was hurt by my share in the business. I find, with satisfaction and pride, that not above four or five in this city (and, I dare say, these misled by some gross misrepresentation) have signed that symbol of delusion and bond of sedition, that libel on the national religion and English character, the Protestant Association. It is therefore, Gentlemen, not by way of cure, but of prevention, and lest the arts of wicked men prevail over the integrity of any one amongst us, that I think it necessary to open to you the merits of this transaction, pretty much at large; and I beg your patience upon it: for, although the reasonings that have been used to depreciate the act are of little force, and though the authority of the men concerned in this ill-design is not very imposing, yet the audaciousness of these conspirators against the national honour, and the extensive wickedness of their attempts, have raised persons of little importance to a degree of civil eminence, and imparted a sort of sinister dignity to proceedings that had their origin only in the meanest and blindest malice.

"In explaining to you the proceedings of Parliament which have been complained of, I will state to you,—first, the thing that was done; next, the persons who did it; and, lastly, the grounds and reasons upon which the legislature proceeded in this deliberate act of public justice and public prudence.

"Gentlemen, the condition of our nature is such, that we buy our blessings at a price. The Reformation, one of the greatest periods of human improvement, was a time of trouble and confusion. The vast structure of superstition and tyranny, which had been for ages in rearing, and which was combined with the interests of the great and of the many; which was moulded into the laws, the manners, and civil institutions of nations, and blended with the frame and policy of states; could not be brought to the ground without a fearful struggle; nor could it fall without a violent concussion of itself and all about it. When this great revolution was attempted in a more regular mode by government, it was opposed by plots and seditions of the people; when by popular efforts, it was repressed as rebellion by the hand of power, and bloody executions (often bloodily returned) marked the whole of its progress through all its stages. The affairs of religion, which are no longer heard of in the tumult of our present contentions, made a principal ingredient in the

wars and politics of that time ; the enthusiasm of religion threw a gloom over the politics ; and political interests poisoned and perverted the spirit of religion upon all sides. The Protestant religion in that violent struggle, infected, as the Popish had been before, by worldly interests and worldly passions, became a persecutor in its turn, sometimes of the new sects, which carried their own principles further than it was convenient to the original reformers ; and always of the body from whom they parted ; and this persecuting spirit arose, not only from the bitterness of retaliation, but from the merciless policy of fear.

" It was long before the spirit of true piety and true wisdom, involved in the principles of the Reformation, could be depurated from the dregs and feculence of the contention with which it was carried through. However, until this be done, the Reformation is not complete ; and those who think themselves good Protestants, from their animosity to others, are, in that respect, no Protestants at all. It was, at first, thought necessary, perhaps, to oppose to Popery another Popery, to get the better of it. Whatever was the cause, laws were made in many countries, and in this kingdom in particular, against Papists, which are as bloody as any of those which had been enacted by the Popish princes and states ; and where those laws were not bloody, in my opinion, they were worse ; as they were slow, cruel outrages on our nature, and kept men alive, only to insult in their persons every one of the rights and feelings of humanity. I pass those statutes, because I would spare your pious ears the repetition of such shocking things ; and I come to that particular law, the repeal of which has produced so many unnatural and unexpected consequences.

" A statute was fabricated in the year 1699, by which the saying mass (a Church-service in the Latin tongue, not exactly the same as our liturgy, but very near it, and containing no offence whatsoever against the laws, or against good morals) was forged into a crime punishable with perpetual imprisonment. The teaching school, a useful and virtuous occupation, even the teaching in a private family, was in every Catholic subjected to the same unproportioned punishment. Your industry, and the bread of your children, was taxed for a pecuniary reward to stimulate avarice to do what nature refused, to inform and prosecute on this law. Every Roman Catholic was, under the same act, to forfeit his estate to his nearest Protestant relation, until, through a profession of what he did not believe, he redeemed by his hypocrisy, what the law had transferred to the kinsman as the recompense of his profligacy. When thus turned out of doors from his paternal estate, he was disabled from acquiring any other by any industry, donation, or charity ; but was rendered a foreigner in his native land, only because he retained the religion, along with the property, handed down to him from those who had been the old inhabitants of that land before him.

" Does any one, who hears me, approve this scheme of things, or think there is common justice, common sense, or common honesty in any part of it ? If any does, let him say it, and I am ready to discuss the point with temper

and candour. But, instead of approving, I perceive a virtuous indignation beginning to rise in your minds on the mere cold stating of the statute.

"But what will you feel, when you know from history how this statute passed, and what were the motives, and what the mode of making it? A party in this nation, enemies to the system of the revolution, were in opposition to the government of King William. They knew that our glorious deliverer was an enemy to all persecution. They knew that he came to free us from slavery and popery, out of a country where a third of the people are contented Catholics under a Protestant government. He came, with a part of his army composed of those very Catholics, to overset the power of a Popish prince. Such is the effect of a tolerating spirit; and so much is liberty served in every way, and by all persons, by a manly adherence to its own principles. Whilst freedom is true to itself, everything becomes subject to it; and its very adversaries are an instrument in its hands.

"The party I speak of (like some amongst us who would disparage the best friends of their country) resolved to make the King either violate his principles of toleration, or incur the odium of protecting Papists. They, therefore, brought in this bill, and made it purposely wicked and absurd, that it might be rejected.* The then court-party, discovering their game, turned the tables on them, and returned their bill to them stuffed with still greater absurdities, that its loss might lie upon its original authors. They, finding their own bill thrown back to them, kicked it back again to their adversaries. And thus this act, loaded, with the double injustice of two parties, neither of whom intended to pass what they hoped the other would be persuaded to reject, went through the legislature contrary to the real wish of all parts of it, and of all the parties that composed it. In this manner these insolent and profligate factions, as if they were playing with balls and counters, made a sport of the fortunes and the liberties of their fellow-creatures. Other acts of persecution have been acts of malice. This was a subversion of justice from wantonness and petulance. Look into the History of Bishop Burnet. He is a witness without exception.†

* The return of a considerable number of Roman Catholic priests and others, after the conclusion of the treaty of Ryswick, in 1697, (by which France engaged to afford no further encouragement to Pretenders to the throne of England,) afforded the enemies of William an opportunity of insinuating that provision had been made for them by the treaty, and that the King himself was really, in heart, a Papist. To remove these false notions the King, in compliance with an address of the Commons, issued a proclamation in 1698, ordering all Papists and Nonjurors to remove from the City of London and adjacent parts. In 1699, on petition presented by the Protestant Clergy in Lancashire, the House of Commons appointed a Committee to inquire how far the laws against Popish refugees had been enforced; and, on the report of the committee being brought up, a bill was introduced "for preventing the further growth of Popery," which, in due season, received the royal assent, contrary to the expectation of its promoters, who had desired to render the King unpopular by his refusal of it.

† Dr. Burnet, Bishop of Salisbury, had been appointed tutor to the Duke of Gloucester, the son of the Princess Anne. With the view of annoying the King, who was

" The effects of the act have been as mischievous as its origin was ludicrous and shameful. From that time every person of that communion, lay and ecclesiastic, has been obliged to fly from the face of day. The clergy, concealed in garrets of private houses, or obliged to take a shelter, (hardly safe to themselves, but infinitely dangerous to their country,) under the privileges of foreign ministers, officiated as their servants, and under their protection. The whole body of the Catholics, condemned to beggary and to ignorance in their native land, have been obliged to learn the principles of letters, at the hazard of all their other principles, from the charity of your enemies. They have been taxed to their ruin at the pleasure of necessitous and profligate relations, and according to the measure of their necessity and profligacy. Examples of this are many and affecting. Some of them are known by a friend who stands near me in this hall. It is but six or seven years since a clergyman of the name of Malony, a man of morals, neither guilty nor accused of anything noxious to the state, was condemned to perpetual imprisonment for exercising the functions of his religion ; and, after lying in jail for two or three years, was relieved by the mercy of government from perpetual imprisonment, on condition of perpetual banishment. A brother of the Earl of Shrewsbury, a Talbot, a name respectable in this country, whilst its glory is any part of its concern, was hauled to the bar of the Old Bailey, among common felons, and only escaped the same doom, either by some error in the process, or that the wretch who brought him there could not correctly describe his person ; I now forget which. In short, the persecution would never have relented for a moment, if the judges, superseding (though with an ambiguous example) the strict rule of their official duty, by the higher obligation of their conscience, did not constantly throw off every difficulty in the way of such informers. But so ineffectual is the power of legal evasion against legal inquiry, that it was but the other day, that a lady of condition, beyond the middle of life, was on the point of being stripped of her whole fortune by a near relation to whom she had been a friend and benefactor ; and she must have been totally ruined, without a power of redress or mitigation from the courts of law, had not the legislature itself rushed in, and by a special Act of Parliament rescued her from the injustice of its own statutes. One of the acts authorising such things was that which we in part repealed, knowing what our duty was, and doing that duty as men of honour and virtue— as good Protestants, and as good citizens. Let him stand forth that disapproves what we have done.

very partial to the Bishop, a prejudice was tried to be raised against him, on the ground of his being unfit to fill such an office, after having published his celebrated Pastoral Letter, in which he had asserted the right of the King and Queen to the Crown on the ground of conquest, which gave such offence to both Houses of Parliament that it was ordered to be burnt by the common hangman. There was, however, no pretence for the removal of the Bishop from his office, which he discharged most honourably ; and a motion made in the Commons for an address to the King, for his dismissal, was rejected by a large majority.

"Gentlemen, bad laws are the worst sort of tyranny. In such a country as this they are, of all bad things, the worst; worse by far than anywhere else; and they derive a particular malignity even from the wisdom and soundness of the rest of our institutions. For very obvious reasons, you cannot trust the Crown with a dispensing power over any of your laws. However, a government, be it as bad as it may, will, in the exercise of a discretionary power, discriminate times and persons; and will not ordinarily pursue any man, when its own safety is not concerned. A mercenary informer knows no distinction. Under such a system, the obnoxious people are slaves, not only to the government, but they live at the mercy of every individual; they are at once the slaves of the whole community, and of every part of it; and the worst and most unmerciful men are those on whose goodness they most depend.

"In this situation men not only shrink from the frowns of a stern magistrate, but they are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse, in social habitudes. The blood of wholesome kindred is infected. Their tables and beds are surrounded with snares. All the means given by Providence to make life safe and comfortable, are perverted into instruments of terror and torment. This species of universal subserviency, that makes the very servant who waits behind your chair the arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mind, which alone can make us what we ought to be, that I vow to God I would sooner bring myself to put a man to immediate death for opinions I disliked, and so to get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the jail-distemper of a contagious servitude to keep him above ground, an animated mass of putrefaction, corrupted himself, and corrupting all about him.

"The act repealed was of this direct tendency; and it was made in the manner in which I related to you. I will now tell you by whom the bill of repeal was brought into Parliament. I find it has been industriously given out in this city (from kindness to me unquestionably) that I was the mover or the seconder. The fact is, I did not once open my lips on the subject during the whole progress of the bill. I do not say this as disclaiming my share in that measure. Very far from it. I inform you of this fact, lest I should seem to arrogate to myself the merits which belong to others. To have been the man chosen out to redeem one fellow-citizen from slavery, to purify our laws from absurdity and injustice, and to cleanse our religion from the blot and stain of persecution, would be an honour and happiness to which my wishes would undoubtedly aspire; but to which nothing but my wishes could have possibly entitled me. That great work was in hands in every respect far better qualified than mine. The mover of the bill was Sir George Savile.

"When an act of great and signal humanity was to be done, and done with all the weight and authority that belonged to it, the world could cast

its eyes upon none but him. I hope that few things which have a tendency to bless or adorn life, have wholly escaped my observation in my passage through it. I have sought the acquaintance of that gentleman, and have seen him in all situations. He is a true genius; with an understanding vigorous, and acute, and refined, and distinguishing even to excess; and illuminated with the most unbounded, peculiar, and original cast of imagination. With these he possesses many external and instrumental advantages; and he makes use of them all. His fortune is amongst the largest; a fortune which, wholly unincumbered, as it is, with one single charge from luxury, vanity, or excess, sinks under the benevolence of its dispenser. This private benevolence, expanding itself into patriotism, renders his whole being the estate of the public, in which he has not reserved a *peculium* for himself of profit, diversion, or relaxation. During the session, the first in, and the last out, of the House of Commons; he passes from the senate to the camp, and, seldom seeing the seat of his ancestors, he is always in the senate to serve his country, or in the field to defend it. But in all well-wrought compositions, some particulars stand out more eminently than the rest; and the things which will carry his name to posterity are his two bills; I mean that for a Limitation of the Claims of the Crown on Landed Estates,* and this for the Relief of the Roman Catholics. By the former, he has emancipated property; by the latter he has quieted conscience: and by both he has taught that grand lesson to government and subject—no longer to regard each other as adverse parties.

"Such was the mover of the act that is complained of by men who are not quite so good as he is; an act most assuredly not brought in by him from any partiality to the sect which is the object of it. For, among his faults, I really cannot help reckoning a greater degree of prejudice against that people than becomes so wise a man. I know that he inclines to a sort of disgust, mixed with a considerable degree of asperity to the system; and he has few, or rather no habits with any of its professors. What he has done was on quite other motives. The motives were these, which he declared in his excellent speech on his motion for the bill; namely, his extreme zeal to the Protestant religion, which he thought utterly disgraced by the act of 1699; and his rooted hatred to all kind of oppression, under any colour or upon any pretence whatsoever.

"The seconder was worthy of the mover and the motion. I was not the seconder; it was Mr. Dunning, Recorder of this city. I shall say the less of him, because his near relation to you makes you more particularly acquainted with his merits. But I should appear little acquainted with them, or little sensible of them, if I could utter his name on this occasion without expressing my esteem for his character. I am not afraid of offending a most learned body, and most jealous of its reputation for that learning, when I

* Commonly called the "Nullum Tempus" Bill, introduced by Sir G. Savile, in 1767.

say he is the first of his profession. It is a point settled by those who settle everything else; and I must add (what I am enabled to say from my own long and close observation) that there is not a man, of any profession, or in any situation, of a more erect and independent spirit; of a more proud honour; a more manly mind; a more firm and determined integrity. Assure yourselves, that the names of two such men will bear a great deal of prejudice in the other scale, before they can be entirely outweighed.

"With this mover and this seconder agreed the *whole* House of Commons, the *whole* House of Lords, the *whole* Bench of Bishops, the King, the Ministry, the Opposition, all the distinguished Clergy of the Establishment, all the eminent lights (for they were consulted) of the Dissenting Churches. This according voice of national wisdom ought to be listened to with reverence. To say that all these descriptions of Englishmen unanimously concurred in a scheme for introducing the Catholic religion, or that none of them understood the nature and effects of what they were doing, so well as a few obscure clubs of people, whose names you never heard of, is shamefully absurd. Surely it is paying a miserable compliment to the religion we profess, to suggest that everything eminent in the kingdom is indifferent, or even adverse to that religion, and that its security is wholly abandoned to the zeal of those who have nothing but their zeal to distinguish them. In weighing this unanimous concurrence of whatever the nation has to boast of, I hope you will recollect, that all these concurring parties do by no means love one another enough to agree in any point which was not, both evidently and importantly, right.

"To prove this—to prove that the measure was both clearly and materially proper, I will next lay before you (as I promised) the political grounds and reasons for the repeal of that penal statute, and the motives to its repeal at that particular time.

"Gentlemen, America—when the English nation seemed to be dangerously, if not irrecoverably divided—when one, and that the most growing branch, was torn from the parent stock, and ingrafted in the power of France—a great terror fell upon this kingdom. On a sudden we awakened from our dreams of conquest, and saw ourselves threatened with an immediate invasion; which we were, at that time, very ill-prepared to resist. You remember the cloud that gloomed over us all. In that hour of our dismay, from the bottom of the hiding-places, into which the indiscriminate rigour of our statutes had driven them, came out the body of the Roman Catholics. They appeared before the steps of a tottering throne, with one of the most sober, measured, steady, and dutiful addresses that was ever presented to the Crown. It was no holiday ceremony; no anniversary compliment of parade and show. It was signed by almost every gentleman of that persuasion, of note or property, in England. At such a crisis, nothing but a decided resolution to stand or fall with their country could have dictated such an address; the direct tendency of which was to cut off all retreat, and to render them peculiarly obnoxious to an invader of their own

communion. The address showed what I long languished to see, that all the subjects of England had cast off all foreign views and connexions, and that every man looked for his relief from every grievance at the hands only of his own natural government.

"It was necessary, on our part, that the natural government should show itself worthy of that name. It was necessary, at the crisis I speak of, that the supreme power of the state should meet the conciliatory dispositions of the subject. To delay protection would be to reject allegiance. And why should it be rejected, or even coldly or suspiciously received? If any independent Catholic state should choose to take part with this kingdom in a war with France and Spain, that bigot (if such a bigot could be found) would be heard with little respect who could dream of objecting his religion to an ally, whom the nation would not only receive with its freest thanks, but purchase with the last remains of its exhausted treasure. To such an ally we should not dare to whisper a single syllable of those base and invidious topics upon which some unhappy men would persuade the state to reject the duty and allegiance of its own members. Is it, then, because foreigners are in a condition to set our malice at defiance, that with *them* we are willing to contract engagements of friendship, and to keep them with fidelity and honour; but that, because we conceive some descriptions of our countrymen are not powerful enough to punish our malignity, we will not permit them to support our common interest? Is it on that ground that our anger is to be kindled by their offered kindness? Is it on that ground that they are to be subject to penalties, because they are willing, by actual merit, to purge themselves from imputed crimes? Lest by an adherence to the cause of their country they should acquire a title to fair and equitable treatment, are we resolved to furnish them with causes of eternal enmity; and rather supply them with just and founded motives to disaffection, than not to have that disaffection in existence to justify an oppression, which, not from policy but disposition, we have predetermined to exercise?

"What shadow of reason could be assigned why, at a time when the most Protestant part of this Protestant empire found it for its advantage to unite with the two principal Popish states (to unite itself in the closest bonds with France and Spain) for our destruction, that we should refuse to unite with our own Catholic countrymen for our own preservation? Ought we, like madmen, to tear off the plasters that the lenient hand of prudence had spread over the wounds and gashes which, in our delirium of ambition, we had given to our own body? No person ever reprobated the American war more than I did, and do, and ever shall. But I never will consent that we should lay additional voluntary penalties on ourselves, for a fault which carries but too much of its own punishment in its own nature. For one, I was delighted with the proposal of internal peace. I accepted the blessing with thankfulness and transport; I was truly happy to find *one* good effect of our civil distractions, that they had put an end to all religious strife and heart-burning in our own bowels. What must be the sentiments of a man

who would wish to perpetuate domestic hostility, when the causes of dispute are at an end; and who, crying out for peace with one part of the nation on the most humiliating terms, should deny it to those who offer friendship without any terms at all?

"But if I was unable to reconcile such a denial to the contracted principles of local duty, what answer could I give to the broad claims of general humanity? I confess to you freely, that the sufferings and distresses of the people of America, in this cruel war, have at times affected me more deeply than I can express. I felt every Gazette of triumph as a blow upon my heart, which has a hundred times sunk and fainted within me at all the mischiefs brought upon those who bear the whole brunt of war in the heart of our country. Yet the Americans are utter strangers to me; a nation among whom I am not sure that I have a single acquaintance. Was I to suffer my mind to be so unaccountably warped; was I to keep such iniquitous weights and measures of temper and of reason, as to sympathise with those who are in open rebellion against an authority which I respect, at war with a country which, by every title, ought to be, and is, most dear to me; and yet to have no feeling at all for the hardships and indignities suffered by men, who, by their very vicinity, are bound up in a nearer relation to us; who contribute their share, and more than their share, to the common prosperity; who perform the common offices of social life, and who obey the laws to the full as well as I do? Gentlemen, the danger to the state being out of the question, (of which, let me tell you, statesmen themselves are apt to have but too exquisite a sense), I could assign no one reason of justice, policy, or feeling, for not concurring most cordially, as most cordially I did concur, in softening some part of that shameful servitude under which several of my worthy fellow-citizens were groaning.

"Important effects followed this act of wisdom. They appeared at home and abroad, to the great benefit of this kingdom; and, let me hope, to the advantage of mankind at large. It betokened union among ourselves. It showed soundness, even on the part of the persecuted, which generally is the weak side of every community. But its most essential operation was not in England. The act was immediately, though very imperfectly, copied in Ireland; and this imperfect transcript of an imperfect act, this first faint sketch of toleration, which did little more than disclose a principle, and mark out a disposition, completed in a most wonderful manner the re-union to the state of all the Catholics of that country. It made us, what we ought always to have been, one family, one body, one heart and soul, against the family-combination, and all other combinations of our enemies. We have, indeed, obligations to that people, who received such small benefits with so much gratitude; and for which gratitude and attachment to us, I am afraid they have suffered not a little in other places.

"I dare say you have all heard of the privileges indulged to the Irish Catholics residing in Spain. You have likewise heard with what circumstances of severity they have been lately expelled from the sea-ports of that

kingdom, driven into the inland cities, and there detained as a sort of prisoners of state. I have good reason to believe, that it was the zeal to our government and our cause, (somewhat indiscreetly expressed in one of the addresses of the Catholics of Ireland), which has thus drawn on their heads the indignation of the court of Madrid; to the inexpressible loss of several individuals, and in future, perhaps, to the great detriment of the whole of their body. Now, that our people should be persecuted in Spain for their attachment to this country, and persecuted in this country for their supposed enmity to us, is such a jarring reconciliation of contradictory distresses,—is a thing at once so dreadful and ridiculous,—that no malice, short of diabolical, would wish to continue any human creatures in such a situation. But honest men will not forget either their merit or their sufferings. There are men, (and many, I trust, there are,) who, out of love to their country and their kind, would torture their invention to find excuses for the mistakes of their brethren; and who, to stifle dissension, would construe, even doubtful appearances, with the utmost favour. Such men will never persuade themselves to be ingenious and refined in discovering disaffection and treason in the manifest palpable signs of suffering loyalty. Persecution is so unnatural to them, that they gladly snatch the very first opportunity of laying aside all the tricks and devices of penal politics; and of returning home, after all their irksome and vexatious wanderings, to our natural family mansion, to the grand social principle, that unites all men, in all descriptions, under the shadow of an equal and impartial justice.

"Men of another sort,—I mean the bigoted enemies to liberty,—may, perhaps, in their politics, make no account of the good or ill affection of the Catholics of England, who are but a handful of people (enough to torment, but not enough to fear), perhaps not so many, of both sexes and of all ages, as fifty thousand. But, gentlemen, it is possible you may not know, that the people of that persuasion in Ireland amount at least to sixteen or seventeen hundred thousand souls. I do not at all exaggerate the number. A *nation* to be persecuted! Whilst we were masters of the sea, embodied with America, and in alliance with half the powers of the continent, we might, perhaps, in that remote corner of Europe, afford to tyrannize with impunity. But there is a revolution in our affairs, which makes it prudent to be just. In our late awkward contest with Ireland about trade, had religion been thrown in, to foment and embitter the mass of discontents, the consequences might have been truly dreadful. But, very happily, that cause of quarrel was previously quieted by the wisdom of the acts I am now commending.

"Even in England, where I admit the danger from the discontent of that persuasion to be less than in Ireland; yet even here, had we listened to the counsels of fanaticism and folly, we might have wounded ourselves very deeply; and wounded ourselves in a very tender part. You are apprised that the Catholics of England consist mostly of our best manufacturers. Had the legislature chosen, instead of returning their declarations of duty

with correspondent good-will, to drive them to despair, there is a country at their very door, to which they would be invited; a country in all respects as good as ours, and with the finest cities in the world ready built to receive them. And thus the bigotry of a free country, and in an enlightened age, would have re-peopled the cities of Flanders, which, in the darkness of two hundred years ago, had been desolated by the superstition of a cruel tyrant. Our manufactures were the growth of the persecutions in the Low Countries.* What a spectacle would it be to Europe, to see us, at this time of day, balancing the account of tyranny with those very countries; and by our persecutions, driving back trade and manufacture, as a sort of vagabonds, to their original settlement! But I trust we shall be saved this last of disgraces.

"So far as to the effect of the act on the interests of this nation. With regard to the interests of mankind at large, I am sure the benefit was very considerable. Long before this act, indeed, the spirit of toleration began to gain ground in Europe. In Holland, the third part of the people are Catholics; they live at ease, and are a sound part of the state. In many parts of Germany, Protestants and Papists partake the same cities, the same councils, and even the same churches. The unbounded liberality of the King of Prussia's conduct on this occasion is known to all the world; and it is of a piece with the other grand maxims of his reign. The magnanimity of the imperial court, breaking through the narrow principles of its predecessors, has indulged its Protestant subjects, not only with property, with worship, with liberal education; but with honours and trusts, both civil and military. A worthy Protestant gentleman of this country now fills, and fills it with credit, a high office in the Austrian Netherlands. Even the Lutheran obstinacy of Sweden has thawed at length, and opened a toleration to all religions. I know myself, that in France the Protestants begin to be at rest. The army, which in that country is everything, is open to them; and some of the military rewards and decorations which the laws deny, are supplied by others, to make the service acceptable and honourable. The first minister of finance in that country is a Protestant.† Two years' war without a tax, is among the first-fruits of their liberality. Tarnished as the glory of this nation is, and as far as it has waded into the shades of an eclipse, some beams of its former illumination still play upon its surface; and what is done in England is still looked to, as argument, and as example. It is certainly true, that no law of this country ever met with such universal

* The bloody persecution of the Protestants in the Netherlands, by the Emperor Charles V., in 1571, caused a very large number to seek refuge in England, where Elizabeth willingly gave them protection; and, as a large portion of the refugees consisted of the most industrious manufacturers in the Netherlands, they were the means of introducing many arts and manufactures hitherto unknown in England.

† Necker. In the following year (1781), however, he resigned, in consequence of being refused (on the score of religion) admission to the council, which privilege he had demanded as a mark of royal favour.

applause abroad, or was so likely to produce the perfection of that tolerating spirit, which, as I observed, has been long gaining ground in Europe; for abroad, it was universally thought that we had done what, I am sorry to say, we had not; they thought we had granted a full toleration. That opinion was, however, so far from hurting the Protestant cause, that I declare, with the most serious solemnity, my firm belief, that no one thing for these fifty years past was so likely to prove deeply beneficial to our religion at large as Sir George Savile's act. In its effects it was 'an act for tolerating and protecting Protestantism throughout Europe:' and I hope that those who were taking steps for the quiet and settlement of our Protestant brethren in other countries, will, even yet, rather consider the steady equity of the greater and better part of the people of Great Britain, than the vanity and violence of a few.

"I perceive, Gentlemen, by the manner of all about me, that you look with horror on the wicked clamour which has been raised on this subject; and that, instead of an apology for what was done, you rather demand from me an account, why the execution of the scheme of toleration was not made more answerable to the large and liberal grounds on which it was taken up. The question is natural and proper; and I remember that a great and learned magistrate, distinguished for his strong and systematic understanding, and who at that time was a member of the House of Commons,* made the same objection to the proceeding. The statutes, as they now stand, are, without doubt, perfectly absurd. But I beg leave to explain the cause of this gross imperfection in the tolerating plan, as well and as shortly as I am able. It was universally thought, that the session ought not to pass over without doing *something* in this business. To revise the whole body of penal statutes was conceived to be an object too big for the time. The penal statute, therefore, which was chosen for repeal, (chosen to show our disposition to conciliate, not to perfect, a toleration), was this act of ludicrous cruelty, of which I have just given you the history. It is an act, which, though not by a great deal so fierce and bloody as some of the rest, was infinitely more ready in the execution. It was the act which gave the greatest encouragement to those pests of society, mercenary informers, and interested disturbers of household peace; and it was observed with truth, that the prosecutions, either carried to conviction or compounded, for many years, had been all commenced upon that act. It was said, that whilst we were deliberating on a more perfect scheme, the spirit of the age would never come up to the execution of the statutes which remained; especially as more steps, and a co-operation of more minds and powers, were required towards a mischievous use of them, than for the execution of the act to be repealed; that it was better to unravel this texture from below than from above, beginning with the latest, which, in general practice, is the severest evil. It was alleged, that this slow proceeding would be attended with the

* Lord Thurlow; who, at the time alluded to by Mr. Burke, was Attorney-General, and sat for Tamworth.

advantage of a progressive experience; and that the people would grow reconciled to toleration, when they should find by the effects, that justice was not so irreconcileable an enemy to convenience as they had imagined.

"These, Gentlemen, were the reasons why we left this good work in the rude unfinished state in which good works are commonly left, through the tame circumspection with which a timid prudence so frequently enervates beneficence. In doing good, we are generally cold, and languid, and sluggish; and of all things afraid of being too much in the right. But the works of malice and injustice are quite in another style. They are finished with a bold masterly hand; touched, as they are, with the spirit of those vehement passions that call forth all our energies whenever we oppress and persecute.

"Thus this matter was left for the time, with a full determination in Parliament not to suffer other and worse statutes to remain for the purpose of counteracting the benefits proposed by the repeal of one penal law; for nobody then dreamed of defending what was done as a benefit, on the ground of its being no benefit at all. We were not then ripe for so mean a subterfuge.

"I did not wish to go over the horrid scene that was afterwards acted. Would to God that it could be expunged for ever from the annals of this country! But since it must subsist for our shame, let it subsist for our instruction. In the year 1780, there were found in this nation men deluded enough (for I give the whole to their delusion) on pretences of zeal and piety, without any sort of provocation whatsoever, real or pretended, to make a desperate attempt, which would have consumed all the power and glory of this country in the flames of London; and buried all law, order, and religion, under the ruins of the metropolis of the Protestant world. Whether all this mischief done, or in the direct train of doing, was in their original scheme, I cannot say; I hope it was not; but this would have been the unavoidable consequence of their proceedings, had not the flames they had lighted up in their fury been extinguished in their blood.

"All the time that this horrid scene was acting, or avenging, as well as for some time before, and ever since, the wicked instigators of this unhappy multitude, guilty, with every aggravation, of all their crimes, and screened in a cowardly darkness from their punishment, continued, without interruption, pity, or remorse, to blow up the blind rage of the populace, with a continued blast of pestilential libels, which infected and poisoned the very air we breathed in.

"The main drift of all the libels, and all the riots, was to force Parliament (to persuade us was hopeless) into an act of national perfidy, which has no example. For, Gentlemen, it is proper you should all know what infamy we escaped by refusing that repeal, for a refusal of which, it seems, I, among others, stand somewhere or other accused. When we took away, on the motives which I had the honour of stating to you, a few of the innumerable penalties upon an oppressed and injured people, the relief was not absolute,

but given on a stipulation and compact between them and us ; for we bound down the Roman Catholics, with the most solemn oaths, to bear true allegiance to this government, to abjure all sort of temporal power in any other, and to renounce, under the same solemn obligations, the doctrines of systematic perfidy, with which they stood (I conceive very unjustly) charged. Now our modest petitioners came up to us, most humbly praying nothing more than that we should break our faith, without any one cause whatsoever of forfeiture assigned ; and when the subjects of this kingdom had, on their part, fully performed their engagement, we should refuse, on our part, the benefit we had stipulated on the performance of those very conditions that were prescribed by our own authority, and taken on the sanction of our public faith. That is to say, when we had inveigled them with fair promises within our door, we were to shut it on them ; and, adding mockery to outrage, to tell them, 'Now we have got you fast—your consciences are bound to a power resolved on your destruction. We have made you swear, that your religion obliges you to keep your faith : fools as you are ! we will now let you see, that our religion enjoins us to keep no faith with you.' They who would advisedly call upon us to do such things, must certainly have thought us not only a convention of treacherous tyrants, but a gang of the lowest and dirtiest wretches that ever disgraced humanity. Had we done this, we should have indeed proved, that there were some in the world whom no faith could bind ; and we should have convicted ourselves of that odious principle, of which Papists stood accused by those very savages, who wished us, on that accusation, to deliver them over to their fury.

"In this audacious tumult, when our very name and character as gentlemen was to be cancelled for ever, along with the faith and honour of the nation, I, who had exerted myself very little on the quiet passing of the bill, thought it necessary then to come forward. I was not alone ; but though some distinguished members on all sides, and particularly on ours, added much to their high reputation by the part they took on that day, (a part which will be remembered so long as honour, spirit, and eloquence, have estimation in the world), I may and will value myself so far, that yielding in abilities to many, I yielded in zeal to none. With warmth and with vigour, and animated with a just and natural indignation, I called forth every faculty that I possessed ; and I directed it in every way in which I could possibly employ it. I laboured night and day. I laboured in Parliament ; I laboured out of Parliament. If, therefore, the resolution of the House of Commons, refusing to commit this act of unmatchless turpitude be a crime, I am guilty among the foremost. But, indeed, whatever the faults of that House may have been, no one member was found hardy enough to propose so infamous a thing ; and on full debate we passed the resolution against the petitions with as much unanimity, as we had formerly passed the law of which these petitions demanded the repeal.

"There was a circumstance (justice will not suffer me to pass it over) which, if anything could enforce the reasons I have given, would fully

justify the act of relief, and render a repeal, or anything like a repeal, unnatural, impossible. It was the behaviour of the persecuted Roman Catholics under the acts of violence and brutal insolence, which they suffered. I suppose there are not in London less than four or five thousand of that persuasion from my country, who do a great deal of the most laborious works in the metropolis; and they chiefly inhabit those quarters which were the principal theatre of the fury of the bigoted multitude. They are known to be men of strong arms and quick feelings, and more remarkable for a determined resolution, than clear ideas, or much foresight. But though provoked by everything that can stir the blood of men, their houses and chapels in flames, and with the most atrocious profanations of everything which they hold sacred before their eyes, not a hand was moved to retaliate, or even to defend. Had a conflict once begun, the rage of their persecutors would have redoubled. Thus fury increasing by the reverberation of outrages, house being fired for house, and church for chapel, I am convinced that no power under heaven could have prevented a general conflagration; and at this day London would have been a tale. But I am well informed, and the thing speaks it, that their clergy exerted their whole influence to keep their people in such a state of forbearance and quiet, as, when I look back, fills me with astonishment; but not with astonishment only. Their merits on that occasion ought not to be forgotten; nor will they, when Englishmen come to recollect themselves. I am sure it were far more proper to have called them forth, and given them the thanks of both Houses of Parliament, than to have suffered those worthy clergymen, and excellent citizens, to be hunted into holes and corners, whilst we are making low-minded inquisitions into the number of their people; as if a tolerating principle was never to prevail, unless we were very sure that only a few could take advantage of it. But indeed we are not yet well recovered of our fright. Our reason, I trust, will return with our security; and this unfortunate temper will pass over like a cloud.

"Gentlemen, I have now laid before you a few of the reasons for taking away the penalties of the act of the year 1699, and for refusing to establish them on the riotous requisition of 1780. Because I would not suffer anything which may be for your satisfaction to escape, permit me just to touch on the objections urged against our act and our resolves, and intended as a justification of the violence offered to both Houses. 'Parliament,' they assert, 'was too hasty, and they ought, in so essential and alarming a change, to have proceeded with a far greater degree of deliberation.' The direct contrary. Parliament was too slow. They took fourscore years to deliberate on the repeal of an act which ought not to have survived a second session. When at length, after a procrastination of near a century, the business was taken up, it proceeded in the most public manner by the ordinary stages, and as slowly as a law so evidently right as to be resisted by none, would naturally advance. Had it been read three times in one day, we should have shown only a becoming readiness to recognise by protection the undoubted dutiful behaviour

of those whom we had but too long punished for offences of presumption or conjecture. But for what end was that bill to linger beyond the usual period of an unopposed measure? Was it to be delayed until a rabble in Edinburgh should dictate to the Church of England what measure of persecution was fitting for her safety? Was it to be adjourned until a fanatical force could be collected in London, sufficient to frighten us out of all our ideas of policy and justice? Were we to wait for the profound lectures on the reason of state, ecclesiastical and political, which the Protestant Association have since condescended to read to us? Or were we, seven hundred peers and commoners, the only persons ignorant of the ribald invectives which occupy the place of argument in those remonstrances, which every man of common observation had heard a thousand times over, and a thousand times over had despised? All men had before heard what they have to say; and all men at this day know what they dare to do; and I trust, all honest men are equally influenced by the one and by the other.

"But they tell us, that those our fellow-citizens, whose chains we have a little relaxed, are enemies to liberty, and our free constitution—not enemies, I presume, to their *own* liberty. And as to the constitution, until we give them some share in it, I do not know upon what pretence we can examine into their opinions about a business in which they have no interest or concern. But, after all, are we equally sure, that they are adverse to our constitution, as that our statutes are hostile and destructive to them? For my part, I have reason to believe, their opinions and inclinations in that respect are various, exactly like those of other men: and if they lean more to the Crown than I, and than many of you think *we* ought, we must remember that he who aims at another's life, is not to be surprised if he flies into any sanctuary that will receive him. The tenderness of the executive power is the natural asylum of those upon whom the laws have declared war; and to complain that men are inclined to favour the means of their own safety is so absurd, that one forgets the injustice in the ridicule.

"I must fairly tell you, that so far as my principles are concerned, (principles, that I hope will only depart with my last breath,) that I have no idea of a liberty unconnected with honesty and justice. Nor do I believe, that any good constitutions of government or of freedom, can find it necessary for their security to doom any part of the people to a permanent slavery. Such a constitution of freedom, if such can be, is in effect no more than another name for the tyranny of the strongest faction; and factions in republics have been, and are, full as capable as monarchs, of the most cruel oppression and injustice. It is but too true, that the love and even the very idea of genuine liberty is extremely rare. It is but too true, that there are many, whose whole scheme of freedom is made up of pride, perverseness, and insolence. They feel themselves in a state of thraldom, they imagine that their souls are cooped and cabined in, unless they have some man, or some body of men, dependent on their mercy. This desire of having some one below them, descends to those who are the very lowest of all; and a Protestant cobbler,

debased by his poverty, but exalted by his share of the ruling church, feels a pride in knowing it is by his generosity alone, that the peer, whose footman's instep he measures, is able to keep his chaplain from a jail. This disposition is the true source of the passion which many men, in very humble life, have taken to the American war. Our subjects in America; our colonies; our dependants. This lust of party-power is the liberty they hunger and thirst for; and this syren-song of ambition has charmed ears that one would have thought were never organised to that sort of music. This way of proscribing the citizens by denominations and general descriptions, dignified by the name of reason of state, and security for constitutions and commonwealths, is nothing better at bottom than the miserable invention of an ungenerous ambition, which would fain hold the sacred trust of power, without any of the virtues, or any of the energies, that give a title to it; a receipt of policy, made up of a detestable compound of malice, cowardice, and sloth. They would govern men against their will; but in that government they would be discharged from the exercise of vigilance, providence, and fortitude; and, therefore, that they may sleep on their watch, they consent to take some one division of the society into partnership of the tyranny over the rest. But let Government, in what form it may be, comprehend the whole in its justice, and restrain the suspicious by its vigilance; let it keep watch and ward; let it discover by its sagacity, and punish by its firmness, all delinquency against its power, whenever delinquency exists in the overt acts; and then it will be as safe as God and nature ever intended it should be. Crimes are the acts of individuals, and not of denominations; and, therefore, arbitrarily to class men under general descriptions, in order to proscribe and punish them in the lump for a presumed delinquency, of which, perhaps, but a part, perhaps none at all, are guilty, is, indeed, a compendious method, and saves a world of trouble about proof; but such a method, instead of being law, is an act of unnatural rebellion against the legal dominion of reason and justice; and this vice, in any constitution that entertains it, at one time or other will certainly bring on its ruin.

"We are told that this is not a religious persecution; and its abettors are loud in disclaiming all severities on account of conscience. Very fine indeed! then let it be so; they are not persecutors; they are only tyrants. With all my heart. I am perfectly indifferent concerning the pretexts upon which we torment one another; or whether it be for the constitution of the Church of England, or for the constitution of the State of England, that people choose to make their fellow-creatures wretched. When we were sent into a place of authority, you that sent us had yourselves but one commission to give. You could give us none to wrong or oppress, or even to suffer any kind of oppression or wrong, on any grounds whatsoever; not on political, as in the affairs of America; not on commercial, as in those of Ireland; not in civil, as in the laws for debt; not in religious, as in the statutes against Protestant or Catholic dissenters. The diversified, but connected, fabric of universal justice is well clamped and bolted together in all its parts;

and depend upon it, I never have employed, and I never shall employ, any engine of power which may come into my hands, to wrench it asunder. All shall stand, if I can help it, and all shall stand connected. After all, to complete this work, much remains to be done; much in the East, much in the West. But great as the work is, if our will be ready our powers are not deficient.

"Since you have suffered me to trouble you so much on this subject, permit me, Gentlemen, to detain you a little longer. I am, indeed, most solicitous to give you perfect satisfaction. I find there are some of a better and softer nature than the persons with whom I have supposed myself in debate, who neither think ill of the act of relief, nor, by any means, desire the repeal; yet who, not accusing, but lamenting, what was done, on account of the consequences, have frequently expressed their wish, that the late act had never been made. Some of this description, and persons of worth, I have met with in this city. They conceive that the prejudices, whatever they might be, of a large part of the people, ought not to have been shocked; that their opinions ought to have been previously taken, and much attended to; and that thereby the late horrid scenes might have been prevented.

"I confess, my notions are widely different; and I never was less sorry for any action of my life. I like the bill the better, on account of the events of all kinds that followed it. It relieved the real sufferers; it strengthened the State; and, by the disorders that ensued, we had clear evidence that there lurked a temper somewhere, which ought not to be fostered by the laws. No ill consequences whatever could be attributed to the act itself. We knew beforehand, or we were poorly instructed, that toleration is odious to the intolerant; freedom to oppressors; property to robbers; and all kinds and degrees of prosperity to the envious. We knew that all these kinds of men would gladly gratify their evil disposition under the sanction of law and religion, if they could; if they could not, yet, to make way to their objects, they would do their utmost to subvert all religion and all law. This we certainly knew. But knowing this, is there any reason, because thieves break in and steal, and thus bring detriment to you, and draw ruin on themselves, that I am to be sorry that you are in possession of shops, and of warehouses, and of wholesome laws to protect them? Are you to build no houses, because desperate men may pull them down upon their own heads? Or, if a malignant wretch will cut his own throat, because he sees you give alms to the necessitous and deserving, shall his destruction be attributed to your charity, and not to his own deplorable madness? If we repent of our good actions, what, I pray you, is left for our faults and follies? It is not the beneficence of the laws, it is the unnatural temper which beneficence can fret and sour, that is to be lamented. It is this temper which, by all rational means, ought to be sweetened and corrected. If forward men should refuse this cure, can they vitiate anything but themselves? Does evil so react upon good, as not only to retard its motion, but to change its nature? If it can so operate, then good men will always be in the power of the bad; and

virtue, by a dreadful reverse of order, must lie under perpetual subjection and bondage to vice.

"As to the opinion of the people, which some think, in such cases, is to be implicity obeyed; near two years' tranquillity, which followed the act, and its instant imitation in Ireland, proved abundantly, that the late horrible spirit was, in a great measure, the act of insidious art, and perverse industry, and gross misrepresentation. But suppose that the dislike had been much more deliberate, and much more general than I am persuaded it was.—When we know that the opinions of even the greatest multitudes are the standard of rectitude, I shall think myself obliged to make those opinions the masters of my conscience. But if it be doubted whether Omnipotence itself is competent to alter the essential constitution of right and wrong, sure I am, that such things, as they and I, are possessed of no such power. No man carries further than I do the policy of making Government pleasing to the people. But the widest range of this politic complaisance is confined within the limits of justice. I would not only consult the interest of the people, but I would cheerfully gratify their humours. We are all a sort of children that must be soothed and managed. I think I am not austere or formal in my nature. I would bear, I would even myself play my part in, any innocent buffooneries, to divert them. But I never will act the tyrant for their amusement. If they will mix malice in their sports, I shall never consent to throw them any living, sentient creature whatsoever, no, not so much as a kitling, to torment.

"But, if I profess all this impolitic stubbornness, 'I may chance never to be elected into Parliament.' It is certainly not pleasing to be put out of the public service. But I wish to be a member of Parliament, to have my share of doing good and resisting evil. It would, therefore, be absurd to renounce my objects, in order to obtain my seat. I deceive myself, indeed, most grossly, if I had not much rather pass the remainder of my life, hidden in the recesses of the deepest obscurity, feeding my mind even with the visions and imaginations of such things, than to be placed on the most splendid throne of the universe, tantalised with a denial of the practice of all which can make the greatest situation any other than the greatest curse. Gentlemen, I have had my day. I can never sufficiently express my gratitude to you for having set me in a place wherein I could lend the slightest help to great and laudable designs. If I have had my share in any measure giving quiet to private property and private conscience; if by my vote I have aided in securing to families the best possession—peace; if I have joined in reconciling kings to their subjects, and subjects to their prince; if I have assisted to loosen the foreign holdings of the citizen, and taught him to look for his protection to the laws of his country, and for his comfort to the goodwill of his countrymen; if I have thus taken my part with the best of men, in the best of their actions, I can shut the book—I might wish to read a page or two more—but this is enough for my measure—I have not lived in vain.

"And now, Gentlemen, on this serious day, when I come, as it were, to

make up my account with you, let me take to myself some degree of honest pride on the nature of the charges that are against me. I do not here stand before you accused of venality, or of neglect of duty. It is not said, that, in the long period of my service, I have, in a single instance, sacrificed the slightest of your interests to my ambition, or to my fortune. It is not alleged, that, to gratify any anger, or revenge of my own, or of my party, I have had a share in wronging or oppressing any description of men, or any one man in any description. No! the charges against me are all of one kind, that I have pushed the principles of general justice and benevolence too far; further than a cautious policy would warrant; and further than the opinions of many would go along with me. In every accident which may happen through life, in pain, in sorrow, in depression, and distress—I will call to mind this accusation, and be comforted.

"Gentlemen, I submit the whole to your judgment. Mr. Mayor, I thank you for the trouble you have taken on this occasion. In your state of health it is particularly obliging. If this company should think it advisable for me to withdraw, I shall respectfully retire; if you think otherwise, I shall go directly to the Council-house and to the 'Change, and, without a moment's delay, begin my canvass."

At the conclusion of the speech the resolution was put and carried unanimously, that Mr. Burke should again offer himself as a candidate for the city; and he accordingly proceeded to the Exchange, where he formally offered himself as their representative according to the usual custom, and proceeded to the poll; but, on the morning of the third day, finding that the prejudice against him was too strong, he declined to continue the contest any longer. In his farewell speech to the electors, Mr. Burke observed that it had been usual for a candidate who retired, not to address his constituents personally, but to take his leave by a letter to the Sheriffs.

"But," said he, "I received your trust in the face of day; and in the face of day I accept your dismission. I am not—I am not at all ashamed to look upon you; nor can my presence discompose the order of business here. I humbly and respectfully take my leave of the sheriffs, the candidates, and the electors; wishing heartily that the choice may be for the best, at a time which calls, if ever time did call, for service that is not nominal. It is no plaything you are about. I tremble when I consider the trust I presume to ask. I confided, perhaps, too much in my intentions. They were really fair and upright; and I am bold to say, that I ask no ill thing for you, when, on parting from this place, I pray, that whomever you choose to succeed me, he may resemble me exactly in all things, except in my abilities to serve, and my fortune to please you."

Speech in support of Mr. Fox's Bill for "Vesting the affairs of the East India Company in the hands of certain Commissioners, for the benefit of the

Proprietors and the Public;" commonly known as "Mr. Fox's India Bill," 1st of December, 1783.

The necessity of a reform in the government of India had become so manifest, that in the Speech from the Throne on the opening of the Session, his Majesty had expressly alluded to it as a matter for the consideration of the House. Accordingly Mr. Fox, who at this time was Secretary of State for Foreign Affairs, under the celebrated Coalition Ministry, brought forward two bills: the one being as stated above, and the other "For the Better Government of the Territorial Possessions and Dependencies in India." By the former of these bills, Mr. Fox proposed to commit the whole management of the territorial possessions, revenues, and commerce of the Company to commissioners, consisting of seven directors named in the Act during four years, with a board of nine assistant directors, under the orders of the former board, for the sole purpose of managing the commercial concerns of the Company; vacancies in the directory to be filled up by his Majesty, and in the assistant-directory by a majority of proprietors in open election; the assistant-directors to be removable, in certain cases, by five directors, and both classes to be removable by the King, on address from either House of Parliament. The second Bill contained regulations for the government of the country by the Governor-general and Council.

The excitement throughout the country, caused by the introduction of these measures, particularly Mr. Fox's India Bill, was extreme; by the friends of Government the latter was considered a masterpiece of legislation; and by their opponents, and Mr. Pitt among the foremost, as an unwarranted invasion of the chartered rights of the East India Company, and as conferring a dangerous power on the new Directory. The Bill, notwithstanding all opposition, having passed the second reading, on the 1st of December, 1783, the order of the day was moved for going into Committee, when Mr. Burke addressed the House in the following speech, in reply to Mr. Powys, who had opposed the Speaker's leaving the chair:—

"Mr. Speaker,

"I thank you for pointing to me. I really wished much to engage your attention in an early stage of the debate. I have been long very deeply, though, perhaps, ineffectually, engaged in the preliminary inquiries, which have continued without intermission for some years.* Though I have felt, with some degree of sensibility, the natural and inevitable impressions of the several matters of fact, as they have been successively disclosed, I have not at any time attempted to trouble you on the merits of the subject; and very little on any of the points which incidentally arose in the course of our proceedings. But I should be sorry to be found totally silent upon this day. Our inquiries are now come to their final issue:—It is now to be determined

* Mr. Burke had taken an active part in the Committee appointed for investigating the affairs of the Company.

whether the three years of laborious parliamentary research, whether the twenty years of patient Indian suffering, are to produce a substantial reform in our eastern administration; or whether our knowledge of the grievances has abated our zeal for the correction of them, and our very inquiry into the evil was only a pretext to elude the remedy, which is demanded from us by humanity, by justice, and by every principle of true policy. Depend upon it, this business cannot be indifferent to our fame. It will turn out a matter of great disgrace or great glory to the whole British nation. We are on a conspicuous stage, and the world marks our demeanour.

"I am, therefore, a little concerned to perceive the spirit and temper in which the debate has been all along pursued upon one side of the House. The declamation of the gentlemen who oppose the bill has been abundant and vehement; but they have been reserved and even silent about the fitness or unfitness of the plan to attain the direct object it has in view. By some gentlemen it is taken up (by way of exercise I presume) as a point of law on a question of private property, and corporate franchise: by others it is regarded as the petty intrigue of a faction at Court, and argued merely as it tends to set this man a little higher, or that a little lower, in situation or power. All the void has been filled up with invectives against coalition; with allusions to the loss of America; with the activity and inactivity of Ministers. The total silence of these gentlemen concerning the interest and well-being of the people of India, and concerning the interest which this nation has in the commerce and revenues of that country, is a strong indication of the value which they set upon these objects.

"It has been a little painful to me to observe the intrusion into this important debate of such company as *quo warranto*, and *mandamus*, and *certiorari;* as if we were on a trial about mayors, and aldermen, and capital burgesses; or engaged in a suit concerning the borough of Penryn, or Saltash, or St. Ives, or St. Mawes. Gentlemen have argued with as much heat and passion, as if the first things in the world were at stake; and their topics are such as belong only to matter of the lowest and meanest litigation. It is not right, it is not worthy of us, in this manner to depreciate the value, to degrade the majesty, of this grave deliberation of policy and empire.

"For my part, I have thought myself bound, when a matter of this extraordinary weight came before me, not to consider (as some gentlemen are so fond of doing) whether the bill originated from a Secretary of State for the Home Department, or from a Secretary for the Foreign, from a minister of influence, or a minister of the people; from Jacob or from Esau.* I asked myself, and I asked myself nothing else, what part it was fit for a member of Parliament, who has supplied a mediocrity of talents by the extreme of diligence, and who has thought himself obliged, by the research of years, to

* An allusion made by Mr. Powys. Mr. Pitt, at this time, enjoyed the full confidence of the King, who personally disliked Mr. Fox; while the latter had the sway in the House of Commons, and hence is called, by Mr. Burke, the Minister of the People, as distinguished from Mr. Pitt, the Minister of Influence.

wind himself into the inmost recesses and labyrinths of the Indian detail—what part, I say, it became such a member of Parliament to take when a Minister of State, in conformity to a recommendation from the Throne, has brought before us a system for the better government of the territory and commerce of the East. In this light, and in this only, I will trouble you with my sentiments.

"It is not only agreed but demanded by the right honourable gentleman,* and by those who act with him, that a *whole* system ought to be produced; that it ought not to be a *half measure;* that it ought to be no *palliative;* but a legislative provision, vigorous, subtantial, and effective. I believe that no man who understands the subject can doubt for a moment, that those must be the conditions of anything deserving the name of a reform in the Indian Government; that anything short of them would not only be delusive, but in this matter, which admits no medium, noxious in the extreme.

"To all the conditions proposed by his adversaries, the mover of the bill perfectly agrees; and on his performance of them he rests his cause. On the other hand, not the least objection has been taken, with regard to the efficiency, the vigour, or the completeness of the scheme. I am, therefore, warranted to assume, as a thing admitted, that the bills accomplish what both sides of the House demand as essential. The end is completely answered, so far as the direct and immediate object is concerned.

"But though there are no direct, yet there are various collateral objections made; objections from the effects which this plan of reform for Indian administration may have on the privileges of great public bodies in England; from its probable influence on the constitutional rights, or on the freedom and integrity of the several branches of the Legislature.

"Before I answer these objections, I must beg leave to observe, that if we are not able to contrive some method of governing India *well*, which will not of necessity become the means of governing Great Britain *ill*, a ground is laid for their eternal separation; but none for sacrificing the people of that country to our constitution. I am, however, far from being persuaded that any such incompatibility of interest does at all exist. On the contrary, I am certain that every means, effectual to preserve India from oppression, is a guard to preserve the British constitution from its worst corruption. To show this, I will consider the objections, which I think are four.

"1st. That the bill is an attack on the chartered rights of men.

"2ndly. That it increases the influence of the Crown.

"3rdly. That it does not increase, but diminishes, the influence of the Crown, in order to promote the interests of certain ministers and their party.

"4thly. That it deeply affects the national credit.

"As to the first of these objections, I must observe, that the phrase of 'the chartered rights of men,' is full of affectation, and very unusual in the discussion of privileges conferred by charters of the present description. But

* Mr. Pitt.

it is not difficult to discover what end that ambiguous mode of expression, so often reiterated, is meant to answer.

"The rights of *men*, that is to say, the natural rights of mankind, are, indeed, sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be set up against it. If these natural rights are further affirmed and declared by express covenants; if they are clearly defined and secured against chicane, against power and authority, by written instruments and positive engagements, they are in a still better condition: they partake not only of the sanctity of the object so secured, but of that solemn public faith itself, which secures an object of such importance. Indeed, this formal recognition by the sovereign power, of an original right in the subject, can never be subverted, but by rooting up the holding radical principles of government, and even of society itself. The charters which we call by distinction *great*, are public instruments of this nature; I mean the charters of King John and King Henry III. The things secured by these instruments may, without any deceitful ambiguity, be very fitly called the *chartered rights of men.*

"These charters have made the very name of a charter dear to the heart of every Englishman. But, Sir, there may, be and there are charters, not only different in nature, but formed on principles the *very reverse* of those of the great charter. Of this kind is the charter of the East India Company. Magna Charta is a charter to restrain power, and to destroy monopoly. The East India Charter is a charter to establish monopoly, and to create power. Political power and commercial monopoly are *not* the rights of men; and the rights of them derived from charters, it is fallacious and sophistical to call 'the chartered rights of men.' These chartered rights (to speak of such charters and of their effects in terms of the greatest possible moderation) do, at least, suspend the natural rights of mankind at large; and in their very frame and constitution, are liable to fall into a direct violation of them.

"It is a charter of this latter description, (that is to say, a charter of power and monopoly,) which is affected by the bill before you. The bill, Sir, does, without question, affect it; it does affect it essentially and substantially. But having stated to you of what description the chartered rights are which this bill touches, I feel no difficulty at all in acknowledging the existence of those chartered rights in their fullest extent. They belong to the Company in the surest manner; and they are secured to that body by every sort of public sanction. They are stamped by the faith of the King; they are stamped by the faith of Parliament; they have been bought for money—for money honestly and fairly paid; they have been bought for valuable consideration, over and over again.

"I, therefore, freely admit to the East India Company their claim to exclude their fellow-subjects from the commerce of half the globe. I admit their claim to administer an annual territorial revenue of seven millions sterling; to command an army of 60,000 men; and to dispose (under the

control of a sovereign imperial discretion, and with the due observance of the natural and local law) of the lives and fortunes of thirty millions of their fellow-creatures. All this they possess by charter and by Acts of Parliament, in my opinion, without a shadow of controversy.

"Those who carry the rights and claims of the Company the furthest, do not contend for more than this; and all this I freely grant. But granting all this, they must grant to me in my turn, that all political power which is set over men, and that all privilege claimed or exercised in exclusion of them, being wholly artificial, and for so much a derogation from the natural equality of mankind at large, ought to be some way or other exercised ultimately for their benefit.

"If this is true with regard to every species of political dominion, and every description of commercial privilege, none of which can be original self-derived rights, or grants for the mere private benefit of the holders, then such rights or privileges, or whatever else you choose to call them, are all, in the strictest sense, a *trust;* and it is of the very essence of every trust to be rendered *accountable;* and even totally to *cease*, when it substantially varies from the purposes for which alone it could have a lawful existence.

"This I conceive, Sir, to be true of trusts of power vested in the highest hands, and of such as seem to hold of no human creature. But about the application of this principle to subordinate *derivative* trusts, I do not see how a controversy can be maintained. To whom, then, would I make the East India Company accountable? Why, to Parliament, to be sure; to Parliament, from whom their trust was derived; to Parliament, which alone is capable of comprehending the magnitude of its object and its abuse, and alone capable of an effectual legislative remedy. The very charter which is held out to exclude Parliament from correcting malversation with regard to the high trust vested in the Company, is the very thing which at once gives a title, and imposes a duty on us to interfere with effect, wherever power and authority originating from ourselves, are perverted from their purposes, and become instruments of wrong and violence.

"If Parliament, Sir, had nothing to do with this charter, we might have some sort of Epicurean excuse to stand aloof, indifferent spectators of what passes in the Company's name in India and in London. But if we are the very cause of the evil, we are in a special manner engaged to the redress; and for us passively to bear with oppressions committed under the sanction of our own authority, is, in truth and reason, for this House to be an active accomplice in the abuse.

"That the power notoriously, grossly abused, has been bought from us, is very certain. But this circumstance, which is urged against the bill, becomes an additional motive for our interference; lest we should be thought to have sold the blood of millions of men for the base consideration of money. We sold, I admit, all that we had to sell; that is, our authority, not our control. We had not a right to make a market of our duties.

"I ground myself, therefore, on this principle,—that if the abuse is

proved, the contract is broken, and we re-enter into all our rights; that is, into the exercise of all our duties: our own authority is, indeed, as much a trust originally, as the Company's authority is a trust derivatively; and it is the use we make of the resumed power that must justify or condemn us in the resumption of it. When we have perfected the plan laid before us by the right honourable mover, the world will then see what it is we destroy, and what it is we create. By that test we stand or fall; and by that test I trust that it will be found in the issue, that we are going to supersede a charter abused to the full extent of all the powers which it could abuse, and exercised in the plenitude of despotism, tyranny, and corruption; and that in one and the same plan, we provide a real chartered security for the *rights of men* cruelly violated under that charter.

"This bill, and those connected with it, are intended to form the Magna Charta of Hindostan. Whatever the treaty of Westphalia is to the liberty of the princes and free cities of the empire, and to the three religions there professed—whatever the Great Charter, the Statute of Tallage, the Petition of Right, and the Declaration of Right, are to Great Britain, these bills are to the people of India. Of this benefit, I am certain, their condition is capable; and when I know that they are capable of more, my vote shall most assuredly be for our giving to the full extent of their capacity of receiving; and no charter of dominion shall stand as a bar in my way to their charter of safety and protection.

"The strong admission I have made of the company's rights (I am conscious of it) binds me to do a great deal. I do not presume to condemn those who argue *à priori*, against the propriety of leaving such extensive political powers in the hands of a company of merchants. I know much is, and much more may be, said against such a system. But, with my particular ideas and sentiments, I cannot go that way to work. I feel an insuperable reluctance in giving my hand to destroy any established institution of government, upon a theory, however plausible it may be. My experience in life teaches me nothing clear upon the subject. I have known merchants with the sentiments and the abilities of great statesmen; and I have seen persons in the rank of statesmen, with the conceptions and character of pedlars. Indeed, my observation has furnished me with nothing that is to be found in any habits of life or education, which tends wholly to disqualify men for the functions of government, but that by which the power of exercising those functions is very frequently obtained, I mean a spirit and habit of low cabal and intrigue; which I have never, in one instance, seen united with a capacity for sound and manly policy.

"To justify us in taking the administration of their affairs out of the hands of the East India Company, on my principles, I must see several conditions. 1st. The object affected by the abuse should be great and important. 2nd. The abuse affecting this great object ought to be a great abuse. 3rd. It ought to be habitual, and not accidental. 4th. It ought to be utterly incurable in the body as it now stands constituted. All this ought to be made as

visible to me as the light of the sun, before I should strike off an atom of their charter. A right honourable gentleman* has said, and said, I think, but once, and that very slightly, (whatever his original demand for a plan might seem to require,) that 'there are abuses in the Company's Government.' If that were all, the scheme of the mover of this bill, the scheme of his learned friend, and his own scheme of reformation (if he has any) are all equally needless. There are, and must be, abuses in all governments. It amounts to no more than a nugatory proposition. But before I consider of what nature these abuses are, of which the gentleman speaks so very lightly, permit me to recall to your recollection the map of the country which this abused chartered right affects. This I shall do, that you may judge whether in that map I can discover anything like the first of my conditions; that is, whether the object affected by the abuse of the East India Company's power be of importance sufficiently to justify the measure and means of reform applied to it in this bill.

"With very few, and those inconsiderable intervals, the British dominion, either in the Company's name, or in the names of princes absolutely dependent upon the Company, extends from the mountains that separate India from Tartary, to Cape Comorin,† that is, 21° of latitude!

"In the northern parts it is a solid mass of land, about eight hundred miles in length, and four or five hundred broad. As you go southward, it becomes narrower for a space. It afterwards dilates; but, narrower or broader, you possess the whole eastern and north-eastern coast of that vast country, quite from the borders of Pegu.—Bengal, Bahar, and Orissa, with Benares, (now unfortunately in our immediate possession,) measure 161,978 square English miles; a territory considerably larger than the whole kingdom of France. Oude, with its dependent provinces, is 53,286 square miles, not a great deal less than England. The Carnatic, with Tanjore and the Circars, is 65,948 square miles, very considerably larger than England; and the whole of the Company's dominions, comprehending Bombay and Salsette, amounts to 281,412 square miles; which forms a territory larger than any European dominion, Russia and Turkey excepted. Through all that vast extent of country there is not a man who eats a mouthful of rice but by permission of the East India Company.

"So far with regard to the extent. The population of this great empire is not easy to be calculated. When the countries, of which it is composed, came into our possession, they were all eminently peopled, and eminently productive; though at that time considerably declined from their ancient prosperity. But since they are come into our hands ——! However, if we make the period of our estimate immediately before the utter desolation of the Carnatic, and if we allow for the havoc which our Government had even then made in these regions, we cannot, in my opinion, rate the population at much less than thirty millions of souls ;‡ more than four times the number of persons in the island of Great Britain.

* Mr. Pitt. † The southern extremity of Hindustan.

‡ The estimated population of British India, at the present time, is as follows, viz.—

"My next inquiry to that of the number, is the quality and description of the inhabitants. This multitude of men does not consist of an abject and barbarous populace: much less of gangs of savages, like the Guaranies and Chiquitos, who wander on the waste borders of the river Amazon, or the Plate; but a people for ages civilized and cultivated; cultivated by all the arts of polished life, whilst we were yet in the woods. There, have been (and still the skeletons remain) princes once of great dignity, authority, and opulence. There, are to be found the chiefs of tribes and nations. There, is to be found an ancient and venerable priesthood, the depository of their laws, learning, and history, the guides of the people whilst living, and their consolation in death; a nobility of great antiquity and renown; a multitude of cities, not exceeded in population and trade by those of the first class in Europe; merchants and bankers, individual houses of whom have once vied in capital with the Bank of England; whose credit had often supported a tottering state, and preserved their governments in the midst of war and desolation; millions of ingenious manufacturers and mechanics; millions of the most diligent, and not the least intelligent, tillers of the earth. Here are to be found almost all the religions professed by men, the Braminical, the Mussulman, the Eastern and the Western Christian.

"If I were to take the whole aggregate of our possessions there, I should compare it, as the nearest parallel I can find, with the empire of Germany. Our immediate possessions I should compare with the Austrian dominions, and they would not suffer in the comparison. The Nabob of Oude might stand for the King of Prussia; the Nabob of Arcot I would compare, as superior in territory, and equal in revenue, to the Elector of Saxony. Cheit Sing,* the Rajah of Benares, might well rank with the Prince of Hesse, at least; and the Rajah of Tanjore (though hardly equal in extent of dominion, superior in revenue) to the Elector of Bavaria. The polygars and the northern zemindars,† and other great chiefs, might well class with the rest of the princes, dukes, counts, marquises, and bishops in the empire; all of whom I mention to honour, and surely without disparagement to any or all of those most respectable princes and grandees.

"All this vast mass, composed of so many orders and classes of men, is again infinitely diversified by manners, by religion, by hereditary employment, through all their possible combinations. This renders the handling of India a matter, in a high degree, critical and delicate. But, oh! it has been handled

British India	90,470,152
Under British protection	40,000,000
Independent, excluding the portion beyond the Ganges	10,000,000
Total . .	140,000,000

* See, *ante*, pp. 106 and 364.

† The Polygars in the south of India were similar to the Zemindars in the northern states, being the hereditary native chiefs who held certain districts subject to the payment of a rent to the Company, but had no property in the soil. See, *ante*, note, p. 365.

rudely indeed. Even some of the reformers seem to have forgot that they had anything to do but to regulate the tenants of a manor, or the shopkeepers of the next county town.

"It is an empire of this extent, of this complicated nature, of this dignity and importance, that I have compared to Germany, and the German government: not for an exact resemblance, but as a sort of a middle term, by which India might be approximated to our understandings, and, if possible, to our feelings; in order to awaken something of sympathy for the unfortunate natives, of which I am afraid we are not perfectly susceptible, whilst we look at this very remote object through a false and cloudy medium.

"My second condition, necessary to justify me in touching the charter, is, whether the Company's abuse of their trust, with regard to this great object, be an abuse of great atrocity. I shall beg your permission to consider their conduct in two lights; first the political, and then the commercial. Their political conduct (for distinctness) I divide again into two heads; the external, in which I mean to comprehend their conduct in their federal capacity, as it relates to powers and states independent, or that not long since were such; the other internal, namely, their conduct to the countries either immediately subject to the Company, or to those who, under the apparent government of native sovereigns, are in a state much lower, and much more miserable, than common subjection.

"The attention, Sir, which I wish to preserve to method, will not be considered as unnecessary or affected. Nothing else can help me to selection out of the infinite mass of materials which have passed under my eye; or can keep my mind steady to the great leading points I have in view.

"With regard, therefore, to the abuse of the external federal trust, I engage myself to you to make good these three positions:—First, I say, that from Mount Imaus, (or whatever else you call that large range of mountains that walls the northern frontier of India,*) where it touches us in the latitude of twenty-nine, to Cape Comorin, in the latitude of eight, that there is not a single prince, state, or potentate, great or small, in India, with whom they have come into contact, whom they have not sold. I say *sold*, though sometimes they have not been able to deliver according to their bargain. Secondly, I say, that there is not a single treaty they have ever made, which they have not broken. Thirdly, I say, that there is not a single prince, or state, who ever put any trust in the Company, who is not utterly ruined; and that none are in any degree secure or flourishing, but in the exact proportion to their settled distrust and irreconcilable enmity to this nation.

"These assertions are universal: I say in the full sense, universal. They regard the external and political trust only; but I shall produce others fully equivalent in the internal. For the present, I shall content myself with explaining my meaning: and if I am called on for proof whilst these bills are depending (which I believe I shall not) I will put my finger on the appendices to the reports, or on papers of record in the House, or the committees, which

* Generally called the Himaleh Mountains.

I have distinctly present to my memory, and which I think I can lay before you at half an hour's warning.

"The first potentate sold by the Company for money, was the Great Mogul,* the descendant of Tamerlane. This high personage, as high as human veneration can look at, is, by every account, amiable in his manners, respectable for his piety according to his mode, and accomplished in all the oriental literature. All this, and the title derived under his *charter*, to all that we hold in India,† could not save him from the general *sale*. Money is coined in his name; in his name justice is administered; he is prayed for in every temple through the countries we possess—but he was sold.

"It is impossible, Mr. Speaker, not to pause here for a moment, to reflect on the inconstancy of human greatness, and the stupendous revolutions that have happened in our age of wonders. Could it be believed when I entered into existence, or when you, a younger man, were born, that on this day, in this House, we should be employed in discussing the conduct of those British subjects who had disposed of the power and person of the Grand Mogul?

* Shah Allum II. By the terms of the treaty settled by Lord Clive, in 1765, after the defeat of Sujah Dowlah, the nabob of Oude, at the battle of Buxar, the Nabob was restored to the whole of his dominions, with the exception of Corah and Allahabad, which were reserved for the Emperor Shah Allum. The latter, however, was forced to submit to harder terms. An income of twenty lacs of rupees was granted to him in addition to the two above-mentioned cities, but all debts due to him from the revenue were cancelled, and the office of Dewannee of the three provinces of Bengal, Bahar, and Orissa, was conferred on the Company, making them, in fact, actual sovereigns of the territory. Subsequently, namely, in 1771, the Mogul Emperor entered into arrangements with the Mahrattas, to co-operate with them in an attack on the Rohillas, who, for protection, were driven, though reluctantly, to seek the aid of the Nabob. Accordingly, Sujah Dowlah, supported by a British force, took up a position near the Ganges, but his assistance was merely pretended, the Mahratta troops being permitted to cross the river and devastate the province which they continued to lay waste, until recalled to their own country by domestic affairs. The Nabob, who had himself been long bent on the plunder of the Rohillas, then traitorously proposed to Mr. Hastings, the President of Bengal, that they should unite for the purpose of the spoliation of the very people whom they had engaged to protect, on the terms of the Nabob paying forty lacs of rupees to Mr. Hastings, and making a monthly allowance to the British troops engaged in the service. These infamous terms were accepted and ratified by the treaty of Benares, and the brutal extermination of the Rohillas followed; and the Emperor Shah Allum was deprived of the provinces of Corah and Allahabad, which had been previously given up to him, but which were delivered to the Nabob for fifty additional lacs of rupees. However disgraceful this settlement was to the parties concerned in it, the Mogul himself was a man deserving of little commiseration, as he himself had entered into a treaty with the Nabob, for the destruction of the unfortunate Rohillas, on condition of participating in the spoil; but the fate of that nation having been already decided by the activity of the British troops before his forces arrived, the Nabob made no scruple of disregarding the terms of the treaty and sacrificing his ally.

† The earliest factories of the East India Company were established in 1611, by the permission of the Mogul, on payment of an export duty at the rate of 3½ per cent. on all shipments.

This is no idle speculation. Awful lessons are taught by it, and by other events of which it is not yet too late to profit.

"This is hardly a digression; but I return to the sale of the Mogul. Two districts, Corah and Allahabad, out of his immense grants, were reserved as a royal demesne to the donor of a kingdom, and the rightful sovereign of so many nations. After withholding the tribute of £260,000 a year, which the Company was, by the charter they had received from this prince, under the most solemn obligation to pay, these districts were sold to his chief minister, Sujah-ul-Dowlah; and, what may appear to some the worst part of the transaction, these two districts were sold for scarcely two years' purchase. The descendant of Tamerlane now stands in need almost of the common necessaries of life; and in this situation we do not even allow him, as bounty, the smallest portion of what we owe him in justice.

"The next sale was that of the whole nation of the Rohillas, which the grand salesman, without a pretence of quarrel, and contrary to his own declared sense of duty and rectitude, sold to the same Sujah-ul-Dowlah. He sold the people to utter *extirpation*, for the sum of four hundred thousand pounds. Faithfully was the bargain performed on our side. Hafiz Rhamet, the most eminent of their chiefs, one of the bravest men of his time, and as famous throughout the East for the elegance of his literature, and the spirit of his poetical compositions (by which he supported the name of Hafiz), as for his courage, was invaded with an army of a hundred thousand men, and an English brigade. This man, at the head of inferior forces, was slain valiantly fighting for his country. His head was cut off, and delivered for money to a barbarian. His wife and children, persons of that rank, were seen begging a handful of rice through the English camp. The whole nation, with inconsiderable exceptions, was slaughtered or banished. The country was laid waste with fire and sword; and that land, distinguished above most others by the cheerful face of paternal government and protected labour, the chosen seat of cultivation and plenty, is now almost throughout a dreary desert, covered with rushes and briars, and jungles full of wild beasts.

"The British officer* who commanded in the delivery of the people thus sold, felt some compunction at his employment. He represented these enormous excesses to the president of Bengal, for which he received a severe reprimand from the civil governor; and I much doubt whether the breach caused by the conflict between the compassion of the military and the firmness of the civil governor, be closed at this hour.

"In Bengal, Surajah Dowlah was sold to Mir Jaffier;† Mir Jaffier was sold to Mir Cossim; and Mir Cossim was sold to Mir Jaffier again. The succession

* Colonel Champion.

† Sujah Dowlah, subahdar of Bengal, and who was the grandson of the celebrated Ali Verdi Khan, jealous of the increasing power of the British in Bengal and the Carnatic, on the 18th June, 1756, besieged Calcutta with an army of 50,000 men, and obtained possession of the town by capitulation, there being no means of effectual resistance. It was on this occasion that, disappointed in the amount of plunder, which he had fondly

to Mir Jaffier was sold to his eldest son ; another son of Mir Jaffier, Mobarech ul Dowlah, was sold to his step-mother. The Mahratta empire was sold to Ragoba ; and Ragoba was sold and delivered to the peishwa of the Mahrattas.* Both Ragoba and the peishwa of the Mahrattas were offered for sale to the Rajah of Berar. Scindia, the chief of Malva, was offered for sale to the same Rajah ; and the Soubah of the Deccan was sold to the great trader Mahomet Ali, Nabob of Arcot. To the same Nabob of Arcot they sold Hyder Ali and

expected to be very considerable, he threw Mr. Holwell and one hundred and forty-five other persons into the celebrated Black Hole, a dungeon in the garrison, where all but twenty-three died from the excessive heat. Colonel Clive, as quickly as possible, hurried with a British force to the assistance of his countrymen, and having defeated the Subahdar, terms of peace were arranged, which Surajah Dowlah swore, on the Koran, strictly to observe ; notwithstanding which he shortly afterwards was discovered to have entered into treacherous negotiations with the French ; in consequence of which, after the victory of Plassy, he was deposed by the British, and Mir Jaffier, the commander-in-chief of the Subahdar's forces, placed on the vacant throne. For some time Mir Jaffier faithfully fulfilled his engagements ; but, at length, becoming weary of paying the enormous tribute which was demanded, he openly rebelled, and the Council of Calcutta, in consequence, appointed his son-in-law, Mir Cossim, guardian of the realm, allowing Mir Jaffier still to enjoy the empty dignity; but Mir Jaffier, fearing to live under such protection, agreed to abdicate in his favour, on being granted an asylum at Calcutta. Mir Cossim, however, was so oppressed by the tyranny and rapacity of the Company's Agents, that, as usual, after a short reign, war ensued ; the new Subahdar was formally deposed, and Mir Jaffier restored. On the death of the latter, in 1765, his illegitimate son, by his slave and dancing girl, Munny Begum, ascended the musnud, or throne, but he dying a minor, Mir Jaffier's second illegitimate son, also a minor, was permitted to succeed him, in consideration of large tribute to the Company, in preference to Miram, the heir of Mir Jaffier's eldest son, who had died suddenly, under most suspicious circumstances, immediately preceding the short reign of Mir Cossim. Mahomed Rheza Khan (see, *ante*, p. 134) was made naib soubah, or guardian for conducting the affairs of the government, but was shortly removed by Mr. Hastings, and Munny Begum, in consideration of two lacs of rupees, was appointed in his place.

* On the death of Maddoo Row, the chief or peishwa of the Mahrattas in 1772, Ragonaut Row, or Ragobah, succeeded, but was shortly afterwards deposed. A treaty was then concluded between him and the Bombay Presidency, in pursuance of which the Mahrattas of Poonah were expelled and Ragobah reinstated ; and in return for these services the English obtained the grant of Bassein and the Island of Salsette, which they had previously occupied, to guard them from falling into the hands of the Portuguese. This treaty was disapproved of by the Supreme Council at Calcutta, and, by their directions, another treaty, called the treaty of Poorunder, was concluded, by which the deposition of Ragobah was affirmed, and Bassein and Salsette restored. The news, however, of the completion of this treaty had scarcely reached Calcutta when dispatches were received from England, in which the Directors expressed their thorough approbation of the first treaty, and commanded the Supreme Council to carry it out. In this position of affairs the Bombay Presidency sought for, and found, an opportunity of infringing the second treaty, and entered into a fresh arrangement with Ragobah, by which a loan of money was advanced to him and an English army sent to his support; but this expedition being defeated by the Mahrattas, Ragobah was delivered up to the Mahratta chief, Scindia, and his cause again abandoned, but, subsequently, again taken up on the change of the aspect of affairs. The Mahrattas, finding themselves again duped, and all treaties with the Company useless, entered into a confederacy with Hyder

the kingdom of Mysore.* To Mahomet Ali they twice sold the kingdom of Tanjore.† To the same Mahomet Ali they sold, at least, twelve sovereign princes, called the Polygars. But to keep things even, the territory of Tinnevelly, belonging to their Nabob, they would have sold to the Dutch; and, to conclude the account of sales, their great customer, the Nabob of Arcot himself, and his lawful succession, has been sold to his second son, Amir-ul-Omrah,‡ whose character, views, and conduct, are in the accounts upon your table. It remains with you whether they shall finally perfect this last bargain. All these bargains and sales were regularly attended with the waste and havoc of the country, always by the buyer, and sometimes by the object of the sale. This was explained to you by the honourable mover, when he stated the mode of paying debts due from the country powers to the Company. An honourable gentleman, who is not now in his place, objected to his jumping near two thousand miles for an example. But the southern example is perfectly applicable to the northern claim, as the northern is to the southern; for throughout the whole space of these two thousand miles, take your stand where you will, the proceeding is perfectly uniform, and what is done in one part will apply exactly to the other.

"My second assertion is, that the Company never has made a treaty which they have not broken. This position is so connected with that of the sales of provinces and kingdoms, with the negotiation of universal distraction in every part of India, that a very minute detail may well be spared on this point. It has not yet been contended, by any enemy to the reform, that they have observed any public agreement. When I hear that they have done so in any one instance (which, hitherto, I confess, I never heard alleged) I shall speak to the particular treaty. The Governor-general has even amused himself and the Court of Directors in a very singular letter to that Board, in which he admits he has not been very delicate with regard to public faith; and he goes so far as to state a regular estimate of the sums which the Company would have lost, or never acquired, if the rigid ideas of public faith entertained by his colleagues had been observed. The learned

Ali to expel the British, as their common enemy, from India; and, accordingly, after all preparations had been made with great secresy, in June of the following year, 1780, Hyder Ali unexpectedly burst into the Carnatic, with an army of upwards of 90,000 men, and laid waste the country within nine miles of the city of Madras. The position of the British, who were forced to contend with such superior numbers, was, on several occasions, very critical; but the enemy were, at last, completely routed by Sir Eyre Coote, and Hyder Ali forced to retreat to the interior, where he died shortly afterwards.

* See, *post*, p. 681. The particulars of this transaction are more fully detailed by Mr. Burke in his subsequent speech, on the Nabob of Arcot's Debts.

† See, *post*, p. 684; and Mr. Burke's subsequent speech, on the Nabob of Arcot's Debts.

‡ This Amir-ul-Omrah was the favourite son of the Nabob, and it was the wish of his father that he should succeed him, and large presents were made in order to ensure the Company's support. Amir-ul-Omrah, however, who was a prince of most vicious character, failed in his endeavours; for on the death of his father, in 1795, his elder brother, Omdut-ul-Omrah, was made Nabob by the Company.

gentleman over against me* has, indeed, saved me much trouble. On a former occasion he obtained no small credit for the clear and forcible manner in which he stated, what we have not forgotten, and I hope he has not forgotten, that universal systematic breach of treaties which had made the British faith proverbial in the East.

"It only remains, Sir, for me just to recapitulate some heads: The treaty with the Mogul, by which we stipulated to pay him £260,000 annually, was broken. This treaty they have broken, and not paid him a shilling. They broke their treaty with him, in which they stipulated to pay £400,000 a-year to the Soubah of Bengal. They agreed with the Mogul, for services admitted to have been performed, to pay Nudjif Khan a pension. They broke this article with the rest, and stopped also this small pension. They broke their treaties with the Nizam, and with Hyder Ali. As to the Mahrattas, they had so many cross treaties with the States-general of that nation, and with each of the Chiefs, that it was notorious that no one of these agreements could be kept without grossly violating the rest. It was observed, that if the terms of these several treaties had been kept, two British armies would, at one and the same time, have met in the field to cut each other's throats. The wars which desolate India, originated from a most atrocious violation of public faith on our part. In the midst of profound peace, the Company's troops invaded the Mahratta territories, and surprised the island and fortress of Salsette. The Mahrattas, nevertheless, yielded to a treaty of peace, by which solid advantages were procured to the Company; but this treaty, like every other treaty, was soon violated by the Company. Again, the Company invaded the Mahratta dominions. The disaster that ensued gave occasion to a new treaty. The whole army of the Company was obliged, in effect, to surrender to this injured, betrayed, and insulted people. Justly irritated, however, as they were, the terms which they prescribed were reasonable and moderate; and their treatment of their captive invaders of the most distinguished humanity. But the humanity of the Mahrattas was of no power whatsoever to prevail on the Company to attend to the observance of the terms dictated by their moderation. The war was renewed with greater vigour than ever; and such was their insatiable lust of plunder, that they never would have given ear to any terms of peace, if Hyder Ali had not broke through the Ghauts, and, rushing like a torrent into the Carnatic, swept away everything in his career. This was in consequence of that confederacy, which by a sort of miracle united the most discordant powers for our destruction, as a nation in which no other could put any trust, and who were the declared enemies of the human species.

"It is very remarkable, that the late controversy between the several presidencies, and between them and the Court of Directors, with relation to these wars and treaties, has not been, which of the parties might be defended for his share in them; but on which of the parties the guilt of all

* Mr. Dundas, Lord-advocate of Scotland.

this load of perfidy should be fixed. But I am content to admit all these proceedings to be perfectly regular, to be full of honour and good faith; and wish to fix your attention solely to that single transaction which the advocates of this system select for so transcendent a merit as to cancel the guilt of all the rest of their proceedings; I mean the late treaties with the Mahrattas.

"I make no observation on the total cession of territory, by which they surrendered all they had obtained by their unhappy successes in the war, and almost all they had obtained under the treaty of Poorunder. The restitution was proper, if it had been voluntary and seasonable. I attach on the spirit of the treaty, the dispositions it showed, the provisions it made for a general peace, and the faith kept with allies and confederates; in order that the House may form a judgment, from this chosen piece, of the use which has been made (and is likely to be made, if things continue in the same hand), of the trust of the federal powers of this country.

"It was the wish of almost every Englishman, that the Mahratta peace might lead to a general one; because the Mahratta war was only a part of a general confederacy formed against us on account of the universal abhorrence of our conduct which prevailed in every state and almost in every house in India. Mr. Hastings was obliged to pretend some sort of acquiescence in this general and rational desire. He therefore consented, in order to satisfy the point of honour of the Mahrattas, that an article should be inserted to admit Hyder Ali to accede to the pacification. But, observe, Sir, the spirit of this man, which, if it were not made manifest by a thousand things, and particularly by his proceedings with respect to Lord Macartney,* would be sufficiently manifest by this: What sort of article, think you, does he require this essential head of a solemn treaty of general pacification to be? In his instruction to Mr. Anderson, he desires him to admit 'a vague article' in favour of Hyder. Evasion and fraud were the declared basis of the treaty. These 'vague' articles, intended for a more vague performance, are the things which have damned our reputation in India.

"Hardly was this vague article inserted, than, without waiting for any act on the part of Hyder, Mr. Hastings enters into a negotiation with the Mahratta chief, Scindia, for a partition of the territories of the Prince, who was one of the objects to be secured by the treaty. He was to be parcelled out in three parts: one to Scindia; one to the Peishwa of the Mahrattas; and the third to the East India Company, or to the old dealer and chapman, Mahomet Ali.

"During the formation of this project, Hyder dies; and before his son could take any one step, either to conform to the tenor of the article, or to contravene it, the treaty of partition is renewed on the old footing, and an instruction is sent to Mr. Anderson to conclude it in form.

"A circumstance intervened, during the pendency of this negotiation, to set off the good faith of the Company with an additional brilliancy, and to

* Governor of Madras, afterwards Governor-general of Bengal.

make it sparkle and glow with a variety of splendid faces. General Matthews had reduced that most valuable part of Hyder's dominions called the country of Biddenore. When the news reached Mr. Hastings, he instructed Mr. Anderson to contend for an alteration in the treaty of partition, and to take the Biddenore country out of the common stock which was to be divided, and to keep it for the Company.

"The first ground for this variation was its being a separate conquest made before the treaty had actually taken place. Here was a new proof given of the fairness, equity, and moderation of the Company. But the second of Mr. Hastings's reasons for retaining the Biddenore as a separate portion, and his conduct on that second ground, is still more remarkable. He asserted that that country could not be put into the partition stock, because General Matthews had received it on the terms of some convention, which might be incompatible with the partition proposed. This was a reason in itself both honourable and solid; and it showed a regard to faith somewhere, and with some persons. But in order to demonstrate his utter contempt of the plighted faith which was alleged on one part as a reason for departing from it on another, and to prove his impetuous desire for sowing a new war, even in the prepared soil of a general pacification, he directs Mr. Anderson, if he should find strong difficulties impeding the partition, on the score of the subtraction of Biddenore, wholly to abandon that claim, and to conclude the treaty on the original terms. General Matthews's convention was just brought forward sufficiently to demonstrate to the Mahrattas the slippery hold which they had on their new confederate; on the other hand, that convention being instantly abandoned, the people of India were taught, that no terms on which they can surrender to the Company are to be regarded when further conquests are in view.

"Next, Sir, let me bring before you the pious care that was taken of our allies under that treaty which is the subject of the Company's applauses. These allies were Ragonaut Row, for whom we had engaged to find a throne; the Guickwar (one of the Guzerat princes), who was to be emancipated from the Mahratta authority, and to grow great by several accessions of dominion; and, lastly, the rana of Gohud, with whom we had entered into a treaty of partition for eleven-sixteenths of our joint conquests. Some of these inestimable securities, called *vague* articles, were inserted in favour of them all.

"As to the first, the unhappy abdicated peishwa, and pretender to the Mahratta throne, Ragonaut Row, was delivered up to his people, with an article for safety, and some provision. This man, knowing how little vague the hatred of his countrymen was towards him, and well apprised of what black crimes he stood accused (among which our invasion of his country would not appear the least), took a mortal alarm at the security we had provided for him. He was thunderstruck at the article in his favour, by which he was surrendered to his enemies. He never had the least notice of the treaty; and it was apprehended that he would fly to the protection of Hyder

Ali, or some other, disposed or able to protect him. He was, therefore, not left without comfort; for Mr. Anderson did him the favour to send a special messenger, desiring him to be of good cheer, and to fear nothing. And his old enemy, Scindia, at our request, sent him a message equally well calculated to quiet his apprehensions.

"By the same treaty the Guickwar was to come again, with no better security, under the dominion of the Mahratta state. As to the rana of Gohud, a long negotiation depended for giving him up. At first this was refused by Mr. Hastings with great indignation; at another stage it was admitted as proper, because he had shown himself a most perfidious person. But at length a method of reconciling these extremes was found out, by contriving one of the usual articles in his favour. What I believe will appear beyond all belief, Mr. Anderson exchanged the final ratifications of that treaty, by which the rana was nominally secured in his possessions, in the camp of the Mahratta chief, Scindia, whilst he was (really, and not nominally) battering the castle of Gualior, which he had given, agreeably to treaty, to this deluded ally. Scindia had already reduced the town; and was at the very time, by various detachments, reducing, one after another, the fortresses of our protected ally, as well as in the act of chastising all the rajahs who had assisted Colonel Carnac in his invasion. I have seen, in a letter from Calcutta, that the rana of Gohud's agent would have represented these hostilities (which went hand in hand with the protecting treaty) to Mr. Hastings; but he was not admitted to his presence.

"In this manner the Company has acted with their allies in the Mahratta war. But they did not rest here: the Mahrattas were fearful lest the persons delivered to them by that treaty should attempt to escape into the British territories, and thus might elude the punishment intended for them, and, by reclaiming the treaty, might stir up new disturbances. To prevent this, they desired an article to be inserted in the supplemental treaty, to which they had the ready consent of Mr. Hastings, and the rest of the Company's representatives in Bengal. It was this, 'that the English and Mahratta governments mutually agree not to afford refuge to any *chiefs*, *merchants*, *or other persons*, flying for protection to the territories of the other.' This was readily assented to, and assented to without any exception whatever, in favour of our surrendered allies. On their part a reciprocity was stipulated which was not unnatural for a government like the Company's to ask: a government conscious that many subjects had been, and would in future be, driven to fly from its jurisdiction.

"To complete the system of pacific intention and public faith, which predominated in these treaties, Mr. Hastings fairly resolved to put all peace, except on the terms of absolute conquest, wholly out of his own power. For, by an article in this second treaty with Scindia,* he binds the Company not

* The treaty before alluded to, in which a vague provision was introduced for

to make any peace with Tippoo Saib,* without the consent of the peishwa of the Mahrattas; and binds Scindia to him by a reciprocal engagement. The treaty between France and England† obliges us mutually to withdraw our forces, if our allies in India do not accede to the peace within four months; Mr. Hastings's treaty obliges us to continue the war as long as the peishwa thinks fit. We are now in that happy situation, that the breach of the treaty with France, or the violation of that with the Mahrattas, is inevitable; and we have only to take our choice.

"My third assertion, relative to the abuse made of the right of war and peace, is, that there are none who have ever confided in us who have not been utterly ruined. The examples I have given of Ragonaut Row, of Guickwar, of the rana of Gohud, are recent. There is proof more than enough in the condition of the Mogul; in the slavery and indigence of the nabob of Oude; the exile of the rajah of Benares;‡ the beggary of the nabob of Bengal; the undone and captive condition of the rajah and kingdom of Tanjore;§ the destruction of the Polygars; and, lastly, in the destruction of the nabob of Arcot himself, who, when his dominions were invaded, was found entirely destitute of troops, provisions, stores, and, as he asserts, of money, being a million in debt to the Company, and four millions to others: the many millions which he had extorted from so many extirpated princes and their desolated countries having, as he has frequently hinted, been expended for the ground-rent of his mansion-house in an alley in the suburbs of Madras. Compare the condition of all these princes with the power and authority of the Mahratta states; with the independence and dignity of the soubah of the Deccan; and the mighty strength, the resources, and the manly struggle of Hyder Ali; and then the House will discover the effects on every power in India, of an easy confidence or of a rooted distrust in the faith of the Company.

"These are some of my reasons, grounded on the abuse of the external political trust of that body, for thinking myself not only justified, but bound, to declare against those chartered rights which produce so many wrongs. I should deem myself the wickedest of men, if any vote of mine could contribute to the continuance of so great an evil.

"Now, Sir, according to the plan I proposed, I shall take notice of the

admitting Hyder Ali to the general pacification, while arrangements were being actually made for the partition of his territories.

* The son of Hyder Ali.

† In 1782, by which England gave up all her conquests in the East Indies, and allowed France her accustomed commerce with that country.

‡ See introduction to Mr. Sheridan's speech on the fourth charge against Warren Hastings, *ante*, p. 106.

§ The rajah of Tanjore was forcibly deposed by the English, under Sir Robert Harland, in 1773, without any colourable pretext, but merely to satisfy the avarice of Mahomet Ali, the nabob of Arcot, whose gold had acquired for him unbounded influence with the Supreme Council. The rajah was afterwards restored by Lord Pigot, Governor of Madras, in 1775.

Company's internal government, as it is exercised, first, on the dependent provinces, and then as it affects those under the direct and immediate authority of that body. And here, Sir, before I enter into the spirit of their interior government, permit me to observe to you, upon a few of the many lines of difference which are to be found between the vices of the Company's government, and those of the conquerors who preceded us in India, that we may be enabled a little the better to see our way in an attempt to the necessary reformation.

"The several irruptions of Arabs, Tartars, and Persians into India were, for the greater part, ferocious, bloody, and wasteful in the extreme: our entrance into the dominion of that country was, as generally, with small comparative effusion of blood; being introduced by various frauds and delusions, and by taking advantage of the incurable, blind, and senseless animosity which the several country powers bear towards each other, rather than by open force. But the difference in favour of the first conquerors is this: the Asiatic conquerors very soon abated of their ferocity, because they made the conquered country their own. They rose or fell with the rise or fall of the territory they lived in. Fathers there deposited the hopes of their posterity; and children there beheld the monuments of their fathers. Here their lot was finally cast; and it is the natural wish of all, that their lot should not be cast in a bad land. Poverty, sterility, and desolation are not a recreating prospect to the eye of man; and there are very few who can bear to grow old among the curses of a whole people. If their passion or their avarice drove the Tartar lords to acts of rapacity or tyranny, there was time enough, even in the short life of man, to bring round the ill effects of an abuse of power upon the power itself. If hoards were made by violence and tyranny, they were still domestic hoards; and domestic profusion, or the rapine of a more powerful and prodigal hand, restored them to the people. With many disorders, and with few political checks upon power, nature had still fair play; the sources of acquisition were not dried up; and, therefore, the trade, the manufactures, and the commerce of the country flourished. Even avarice and usury itself operated both for the preservation and the employment of national wealth. The husbandman and manufacturer paid heavy interest, but then they augmented the fund from whence they were again to borrow. Their resources were dearly bought, but they were sure; and the general stock of the community grew by the general effort.

"But under the English government all this order is reversed. The Tartar invasion was mischievous; but it is our protection that destroys India. It was their enmity, but it is our friendship. Our conquest there, after twenty years, is as crude as it was the first day. The natives scarcely know what it is to see the grey head of an Englishman. Young men (boys almost) govern there, without society, and without sympathy with the natives. They have no more social habits with the people, than if they still resided in England; nor indeed any species of intercourse but that which is

necessary to making a sudden fortune, with a view to a remote settlement. Animated with all the avarice of age, and all the impetuosity of youth, they roll in one after another; wave after wave; and there is nothing before the eyes of the natives but an endless, hopeless prospect of new flights of birds of prey and passage, with appetites continually renewing for a food that is continually wasting. Every rupee of profit made by an Englishman is lost for ever to India. With us are no retributory superstitions, by which a foundation of charity compensates through ages to the poor, for the rapine and injustice of a day. With us no pride erects stately monuments which repair the mischiefs which pride had produced, and which adorn a country out of its own spoils. England has erected no churches, no hospitals, no palaces, no schools; England has built no bridges, made no high roads, cut no navigations, dug out no reservoirs. Every other conqueror of every other description has left some monument, either of state or beneficence, behind him. Were we to be driven out of India this day, nothing would remain to tell that it had been possessed, during the inglorious period of our dominion, by anything better than the ouran-outang or the tiger.

"There is nothing in the boys we send to India worse than in the boys whom we are whipping at school, or that we see trailing a pike, or bending over a desk at home. But as English youth in India drink the intoxicating draught of authority and dominion before their heads are able to bear it, and as they are full grown in fortune long before they are ripe in principle, neither nature nor reason have any opportunity to exert themselves for remedy of the excesses of their premature power. The consequences of their conduct, which in good minds (and many of theirs are probably such) might produce penitence or amendment, are unable to pursue the rapidity of their flight. Their prey is lodged in England; and the cries of India are given to seas and winds, to be blown about, in every breaking up of the monsoon, over a remote and unhearing ocean. In India all the vices operate by which sudden fortune is acquired; in England are often displayed by the same persons the virtues which dispense hereditary wealth. Arrived in England, the destroyers of the nobility and gentry of a whole kingdom will find the best company in this nation, at a board of elegance and hospitality. Here the manufacturer and husbandman will bless the just and punctual hand that in India has torn the cloth from the loom, or wrested the scanty portion of rice and salt from the peasant of Bengal, or wrung from him the very opium in which he forgot his oppressions and his oppressor. They marry into your families; they enter into your senate; they ease your estates by loans; they raise their value by demand; they cherish and protect your relations which lie heavy on your patronage; and there is scarcely a house in the kingdom that does not feel some concern and interest that makes all reform of our Eastern government appear officious and disgusting, and, on the whole, a most discouraging attempt. In such an attempt you hurt those who are able to return kindness, or to resent injury. If you succeed, you save those who cannot so much as give you thanks.

All these things show the difficulty of the work we have on hand; but they show its necessity too. Our Indian government is, in its best state, a grievance. It is necessary that the correctives should be uncommonly vigorous; and the work of men, sanguine, warm, and even impassioned, in the cause. But it is an arduous thing to plead against abuses of a power which originates from your own country, and affects those whom we are used to consider as strangers.

"I shall certainly endeavour to modulate myself to this temper; though I am sensible that a cold style of describing actions which appear to me in a very affecting light, is equally contrary to the justice due to the people, and to all genuine human feelings about them. I ask pardon of truth and nature for this compliance: but I shall be very sparing of epithets either to persons or things. It has been said (and, with regard to one of them, with truth) that Tacitus and Machiavel, by their cold way of relating enormous crimes, have in some sort appeared not to disapprove them; that they seem a sort of professors of the art of tyranny; and that they corrupt the minds of their readers, by not expressing the detestation and horror that naturally belong to horrible and detestable proceedings. But we are in general, Sir, so little acquainted with Indian details; the instruments of oppression under which the people suffer are so hard to be understood; and even the very names of the sufferers are so uncouth and strange to our ears, that it is very difficult for our sympathy to fix upon these objects. I am sure that some of us have come down stairs from the committee-room, with impressions on our minds, which to us were the inevitable results of our discoveries; yet if we should venture to express ourselves, in the proper language of our sentiments, to other gentlemen, not at all prepared to enter into the cause of them, nothing could appear more harsh and dissonant, more violent and unaccountable, than our language and behaviour. All these circumstances are not, I confess, very favourable to the idea of our attempting to govern India at all. But there we are;—there we are placed by the Sovereign Disposer; and we must do the best we can in our situation. The situation of man is the preceptor of his duty.

"Upon the plan which I laid down, and to which I beg leave to return, I was considering the conduct of the Company to those nations which are indirectly subject to their authority. The most considerable of the dependent princes is the nabob of Oude. My right honourable friend,* to whom we owe the remedial bills on your table, has already pointed out to you, in one of the reports, the condition of that prince, and as it stood in the time he alluded to. I shall only add a few circumstances that may tend to awaken some sense of the manner in which the condition of the people is affected by that of the prince, and involved in it; and to show you, that when we talk of the sufferings of princes, we do not lament the oppression of individuals; and that, in these cases, the high and the low suffer together.

* Mr. Fox.

"In the year 1779, the nabob of Oude represented, through the British resident at his court, that the number of the Company's troops stationed in his dominions was a main cause of his distress; and that all those which he was not bound by treaty to maintain should be withdrawn, as they had greatly diminished his revenue, and impoverished his country.* I will read you, if you please, a few extracts from these representations.

"He states, 'that the country and cultivation are abandoned; and this year in particular, from the excessive drought of the season, deductions of many lacs having been allowed to the farmers, who are still left unsatisfied;' and then he proceeds with a long detail of his own distress, and that of his family, and all his dependants; and adds, 'that the new-raised brigade is not only quite useless to my government, but is moreover the cause of much loss, both in revenues and customs. The detached body of troops under European officers, bring nothing *but confusion to the affairs of my government, and are entirely their own masters.*' Mr. Middleton, Mr. Hastings's confidential resident, vouches for the truth of this representation, in its fullest extent: 'I am concerned to confess, that there is too good ground for this plea. *The misfortune has been general throughout the whole of the vizier's* (the nabob of Oude) *dominions*, obvious to everybody; and so fatal have been its consequences, that no person of either credit or character, would enter into engagements with Government for farming the country.' He then proceeds to give strong instances of the general calamity, and its effects.

"It was now to be seen what steps the Governor-general and Council took for the relief of this distressed country, long labouring under the vexations of men, and now stricken by the hand of God. The case of a general famine is known to relax the severity even of the most rigorous government. Mr. Hastings does not deny, or show the least doubt of the fact. The representation is humble, and almost abject. On this representation from a

* It will be remembered that on the death of Sujah Dowlah, nabob of Oude, in 1775, he was succeeded by Asoff-u-Dowlah, his son, who, in return for his recognition by the Bengal government, and their guaranteeing to him the provinces of Corah and Allahabad, which they had sold to his father, Sujah Dowlah (as mentioned in note, p. 676), yielded to them the territory of the rajah Cheit Sing, zemindar of Benares, producing an annual income of 2,210,000 rupees; and agreed besides to pay a tribute of 260,000 rupees a month for the support of the Company's brigade. After his failure in replenishing the state coffers by the oppression of Cheit Sing, Mr. Hastings made fresh demands on the Nabob, although the latter had continually protested his inability to continue the heavy burdens already imposed upon him; and as a means of creating a new source of wealth, all previous treaties were dissolved, and a fresh one concluded at Chunah, by which the Nabob was to be relieved from the charge of supporting the British troops, and was permitted, on certain conditions, to resume several of the jaghires within his dominions: the real object of this treaty, on the part of Mr. Hastings, being to plunder the Begums of Oude, who were reputed to possess enormous wealth, through the medium of the Nabob, and to divide the spoil with him. (See Introduction to Mr. Sheridan's speech on the fourth charge against Warren Hastings, *ante*, p. 106.)

great prince, of the distress of his subjects, Mr. Hastings falls into a violent passion; such as (it seems) would be unjustifiable in any one who speaks of any part of *his* conduct. He declares, 'that the *demands*, the *tone* in which they were asserted, and the *season* in which they were made, are all equally alarming, and appear to him to require an adequate degree of firmness in this board, in *opposition* to them.' He proceeds to deal out very unreserved language, on the person and character of the Nabob and his ministers. He declares, that in a division between him and the Nabob, '*the strongest must decide*.' With regard to the urgent and instant necessity, from the failure of the crops, he says, 'that *perhaps* expedients *may be found* for affording a *gradual* relief from the burthen of which he so heavily complains, and it shall be my endeavour to seek them out:' and, lest he should be suspected of too much haste to alleviate sufferings, and to remove violence, he says 'that these must be *gradually* applied, that their complete *effect* may be distant; and this, I conceive, *is all* he can claim of right.'

"This complete effect of his lenity is distant indeed. Rejecting this demand, (as he calls the Nabob's abject supplication), he attributes it, as he usually does all things of the kind, to the division in their government; and says, 'This is a powerful motive with *me* (however inclined I might be, *upon any other occasion*, to yield to some part of his demand) to give them an *absolute and unconditional refusal* upon the present; and even *to bring to punishment, if my influence can produce that effect, those incendiaries who have endeavoured to make themselves the instruments of division between us*.'

"Here, Sir, is much heat and passion; but no more consideration of the distress of the country, from a failure of the means of subsistence, and, if possible, the worse evil of a useless and licentious soldiery, than if they were the most contemptible of all trifles. A letter is written in consequence, in such a style of lofty despotism, as I believe has hitherto been unexampled and unheard-of in the records of the East. The troops were continued. The *gradual* relief, whose effect was to be so distant, has never been substantially and beneficially applied—and the country is ruined.

"Mr. Hastings, two years after, when it was too late, saw the absolute necessity of a removal of the intolerable grievance of this licentious soldiery, which, under pretence of defending it, held the country under military execution. A new treaty and arrangement, according to the pleasure of Mr. Hastings, took place; and this new treaty was broken in the old manner, in every essential article. The soldiery were again sent, and again set loose. The effect of all his manœuvres, from which it seems he was sanguine enough to entertain hopes, upon the state of the country, he himself informs us 'the event has proved the *reverse* of these hopes, and *accumulation of distress, debasement and dissatisfaction* to the Nabob, and *disappointment and disgrace to me*. Every measure (which he had himself proposed) has been *so conducted* as to give him cause of displeasure; there are no officers established by which his affairs could be regularly conducted; mean, incapable, and indigent men have been appointed. A number of the districts without authority,

and without the means of personal protection; some of them have been murdered by the Zemindars, and those Zemindars, instead of punishment, have been permitted to retain their Zemindaries, with independent authority; *all* the other Zemindars suffered to rise up in rebellion, and to insult the authority of the Sircar, without any attempt made to suppress them; and the Company's debt, instead of being discharged by the assignments and extraordinary sources of money provided for that *purpose, is likely to exceed even the amount at which it stood at the time in which the arrangement with his Excellency was concluded.*' The House will smile at the resource on which the Directors take credit as such a certainty in their curious account.

"This is Mr. Hastings's own narrative of the effects of his own settlement. This is the state of the country which we have been told is in perfect peace and order; and, what is curious, he informs us, that *every part of this was foretold to him in the order and manner in which it happened*, at the very time he made his arrangement of men and measures.

"The invariable course of the Company's policy is this: either they set up some prince too odious to maintain himself without the necessity of their assistance; or they soon render him odious, by making him the instrument of their government. In that case troops are bountifully sent him to maintain his authority. That he should have no want of assistance, a civil gentleman, called a resident, is kept at his court, who under pretence of providing duly for pay of these troops, gets assignments on the revenue into his hands. Under his provident management, debts soon accumulate; new assignments are made for these debts; until, step by step, the whole revenue, and with it the whole power of the country, is delivered into his hands. The military do not behold without a virtuous emulation the moderate gains of the civil department. They feel that, in a country driven to habitual rebellion by the civil government, the military is necessary; and they will not permit their services to go unrewarded. Tracts of country are delivered over to their discretion. Then it is found proper to convert their commanding officers into farmers of revenue. Thus, between the well-paid civil, and well-rewarded military establishment, the situation of the natives may be easily conjectured. The authority of the regular and lawful government is everywhere and in every point extinguished. Disorders and violences arise; they are repressed by other disorders and other violences. Wherever the collectors of the revenue, and the farming colonels and majors move, ruin is about them, rebellion before and behind them. The people in crowds fly out of the country; and the frontier is guarded by lines of troops, not to exclude an enemy, but to prevent the escape of the inhabitants.

"By these means, in the course of not more than four or five years, this once opulent and flourishing country, which, by the accounts given in the Bengal consultations, yielded more than three crore of sicca rupees, that is, above three millions sterling annually, is reduced, as far as I can discover, in a matter purposely involved in the utmost perplexity, to less than

£1,300,000, and that exacted by every mode of rigour that can be devised.* To complete the business, most of the wretched remnants of this revenue are mortgaged, and delivered into the hands of the usurers at Benares (for there alone are to be found some lingering remains of the ancient wealth of these regions) at an interest of nearly thirty per cent. per annum.

"The revenues in this manner failing, they seized upon the estates of every person of eminence in the country, and, under the name of *resumption*, confiscated their property. I wish, Sir, to be understood universally and literally, when I assert, that there is not left one man of property and substance for his rank, in the whole of these provinces, in provinces which are nearly the extent of England and Wales taken together. Not one landholder, not one banker, not one merchant, not one even of those who usually perish last, the *ultimum moriens* in a ruined state, not one farmer of revenue.

"One country for a while remained, which stood as an island in the midst of the grand waste of the Company's dominion. My right honourable friend, in his admirable speech on moving the bill, just touched the situation, the offences, and the punishment of a native prince, called Fizoolla Khân.† This man, by policy and force, had protected himself from the general extirpation of the Rohilla chiefs. He was secured, if that were any security, by a treaty. It was stated to you, as it was stated by the enemies of that unfortunate man, 'that the whole of his country is what the whole country of the Rohillas was, cultivated like a garden, without one neglected spot in it.' Another accuser says, 'Fizoolla Khân, though a bad soldier, (that is the true source of his misfortune,) has approved himself a good aumil; having, it is supposed, in the course of a few years, at least, *doubled* the population and revenue of his country.' In another part of the correspondence, he is charged with making his country an asylum for the oppressed peasants, who fly from the territories of Oude. The improvement of his revenue, arising from this single crime (which Mr. Hastings considers as tantamount to treason), is stated at £150,000 a-year.

"Dr. Swift somewhere says, that he who could make two blades of grass grow where but one grew before, was a greater benefactor to the human race than all the politicians that ever existed. This prince, who would have been deified by antiquity, who would have been ranked with Osiris, and Bacchus, and Ceres, and the divinities most propitious to men, was, for those very merits, by name attacked by the Company's government, as a cheat, a robber, a traitor. In the same breath in which he was accused as a rebel, he was ordered at once to furnish five thousand horse. On delay,

* See Mr. Sheridan's Speech, *ante*, p. 145.

† See note, *ante*, p. 132. At the end of 1782, he paid fifteen lacs of rupees, to be exempted from keeping up his contingent for the British army, and an attempt was made to extort fifteen more, in consideration of his Jaghire being made hereditary; but this he was unable to pay, although, by his good system of government, the country under his dominion was in a very flourishing condition.

or (according to the technical phrase, when any remonstrance is made to them,) '*on evasion*,' he was declared a violator of treaties, and everything he had was to be taken from him. Not one word, however, of horse in this treaty.

"The territory of this Fizoolla Khân, Mr. Speaker, is less than the county of Norfolk. It is an inland country, full seven hundred miles from any seaport, and not distinguished for any one considerable branch of manufacture whatsoever. From this territory several very considerable sums had, at several times, been paid to the British resident. The demand of cavalry, without a shadow or decent pretext of right, amounted to £300,000 a-year more, at the lowest computation; and it is stated, by the last person sent to negotiate, as a demand of little use, if it could be complied with; but that the compliance was impossible, as it amounted to more than his territories could supply, if there had been no other demand upon him—£300,000 a-year from an inland country not so large as Norfolk!

"The thing most extraordinary was to hear the culprit defend himself from the imputation of his virtues, as if they had been the blackest offences. He extenuated the superior cultivation of his country; he denied its population; he endeavoured to prove that he had often sent back the poor peasant that sought shelter with him.—I can make no observation on this.

"After a variety of extortions and vexations, too fatiguing to you, too disgusting to me, to go through with, they found 'that they ought to be in a better state to warrant forcible means;' they, therefore, contented themselves with a gross sum of £150,000 for their present demand. They offered him, indeed, an indemnity from their exactions in future for £300,000 more. But he refused to buy their securities; pleading (probably with truth) his poverty: but if the plea were not founded, in my opinion, very wisely; not choosing to deal any more in that dangerous commodity of the Company's faith; and thinking it better to oppose distress and unarmed obstinacy to uncoloured exaction, than to subject himself to be considered as a cheat, if he should make a treaty in the least beneficial to himself.

"Thus they executed an exemplary punishment on Fizoolla Khân for the culture of his country. But, conscious that the prevention of evils is the great object of all good regulation, they deprived him of the means of increasing that criminal cultivation in future, by exhausting his coffers; and, that the population of his country should no more be a standing reproach and libel on the Company's government, they bound him, by a positive engagement, not to afford any shelter whatsoever to the farmers and labourers who should seek refuge in his territories from the exactions of the British residents in Oude. When they had done all this effectually, they gave him a full and complete acquittance from all charges of rebellion, or of any intention to rebel, or of his having originally had any interest in, or any means of rebellion.

"These intended rebellions are one of the Company's standing resources. When money has been thought to be heaped up anywhere, its owners are universally accused of rebellion, until they are acquitted of their money and their treasons at once. The money once taken, all accusation, trial, and punishment ends. It is so settled a resource, that I rather wonder how it comes to be omitted in the Directors' account; but I take it for granted this omission will be supplied in their next edition.

"The Company stretched this resource to the full extent when they accused two old women,* in the remotest corner of India (who could have no possible view or motive to raise disturbances), of being engaged in rebellion, with an intent to drive out the English nation, in whose protection, purchased by money and secured by treaty, rested the sole hope of their existence. But the Company wanted money, and the old women *must* be guilty of a plot. They were accused of rebellion, and they were convicted of wealth. Twice had great sums been extorted from them, and as often had the British faith guaranteed the remainder.† A body of British troops, with one of the military farmers-general at their head, was sent to seize upon the castle in which these helpless women resided. Their chief eunuchs, who were their agents, their guardians, protectors, persons of high rank according to the eastern manners, and of great trust, were thrown into dungeons to make them discover their hidden treasures; and there they lie at present. The lands assigned for the maintenance of the women were seized and confiscated. Their jewels and effects were taken and set up to a pretended auction in an obscure place, and bought at such a price as the gentlemen thought proper to give. No account has even been transmitted of the articles or produce of this sale. What money was obtained is unknown, or what terms were stipulated for the maintenance of these despoiled and forlorn creatures; for by some particulars it appears as if an engagement of the kind was made.

"Let me here remark, once for all, that though the act of 1773 requires that an account of all proceedings should be diligently transmitted, that this, like all the other injunctions of the law, is totally despised; and that half at least of the most important papers are intentionally withheld.

"I wish you, Sir, to advert particularly, in this transaction, to the quality and the numbers of the persons spoiled, and the instrument by whom that spoil was made. These ancient matrons—called the Begums, or princesses —were of the first birth and quality in India; the one mother, the other wife, of the late nabob of Oude, Sujah Dowlah, a prince possessed of extensive and flourishing dominions, and the second man in the Mogul empire. This prince (suspicious, and not unjustly suspicious, of his son and successor) at his death committed his treasures and his family to the British faith. That family and household consisted of two thousand women; to which

* The Begum princesses of Oude, who resided at Fyzabad.

† See note, *ante*, p. 147.

were added two other seraglios of near kindred, and said to be extremely numerous, and (as I am well informed) of about fourscore of the Nabob's children, with all the eunuchs, the ancient servants, and a multitude of the dependents of his splendid court. These were all to be provided, for present maintenance and future establishment, from the lands assigned as dower, and from the treasures which he left to these matrons, in trust for the whole family.

"So far as to the objects of the spoil. The instrument chosen by Mr. Hastings to despoil the relict of Sujah Dowlah was her own son, the reigning nabob of Oude. It was the pious hand of a son that was selected to tear from his mother and grandmother the provision of their age, the maintenance of his brethren, and of all the ancient household of his father. [Here a laugh from some young members.]—The laugh is *seasonable*, and the occasion decent and proper.

"By the last advices, something of the sum extorted remained unpaid. The women in despair refused to deliver more unless their lands were restored, and their ministers released from prison: but Mr. Hastings and his council, steady to their point, and consistent to the last in their conduct, write to the resident* to stimulate the son to accomplish the filial acts he had brought so near to their perfection. 'We desire,' say they, in their letter to the resident (written so late as March last), 'that you will inform us if any, and what means, have been taken for recovering the balance due from the Begum at Fyzabad; and that, if necessary, you *recommend* it to the vizier to enforce *the most effectual means* for that purpose.'

"What their effectual means of enforcing demands on women of high rank and condition are, I shall show you, Sir, in a few minutes; when I represent to you another of these plots and rebellions, which always in India, though so rarely anywhere else, are the offspring of an easy condition and hoarded riches.

"Benares is the capital city of the Indian religion. It is regarded as holy by a particular and distinguished sanctity; and the Gentoos in general think themselves as much obliged to visit it once in their lives as the Mahometans to perform their pilgrimage to Mecca. By this means that city grew great in commerce and opulence; and so effectually was it secured by the pious veneration of that people, that in all wars and in all violences of power, there was so sure an asylum, both for poverty and wealth (as it were under a divine protection), that the wisest laws and best assured free constitution could not better provide for the relief of the one, or the safety of the other; and this tranquillity influenced to the greatest degree the prosperity of all the country, and the territory of which it was the capital. The interest of money there was not more than half the usual rate in which it stood in all other places. The reports have fully informed you of the means and of the terms in which this city and the territory called Gazipour, of which it was the head, came under the sovereignty of the East India Company.

* Mr. Middleton.

"If ever there was a subordinate dominion pleasantly circumstanced to the superior power, it was this; a large rent or tribute, to the amount of £260,000 a year, was paid in monthly instalments with the punctuality of a dividend at the bank. If ever there was a prince who could not have an interest in disturbances, it was its sovereign, the rajah Cheit Sing. He was in possession of the capital of his religion, and a willing revenue was paid by the devout people who resorted to him from all parts. His sovereignty and his independence, except his tribute, was secured by every tie. His territory was not much less than half of Ireland, and displayed in all parts a degree of cultivation, ease, and plenty, under his frugal and paternal management, which left him nothing to desire, either for honour or satisfaction.

"This was the light in which this country appeared to almost every eye. But Mr. Hastings beheld it askance. Mr. Hastings tells us that it was *reported* of this Cheit Sing, that his father left him a million sterling, and that he made annual accessions to the hoard. Nothing could be so obnoxious to indigent power. So much wealth could not be innocent. The House is fully acquainted with the unfounded and unjust requisitions which were made upon this prince.* The question has been most ably and conclusively cleared up in one of the reports of the select committee, and in the answer of the Court of Directors to an extraordinary publication against them by their servant, Mr. Hastings. But I mean to pass by these exactions, as if they were perfectly just and regular; and, having admitted them, I take what I shall now trouble you with, only as it serves to show the spirit of the Company's government, the mode in which it is carried on, and the maxims on which it proceeds.

"Mr. Hastings, from whom I take the doctrine, endeavours to prove that Cheit Sing was no sovereign prince, but a mere zemindar or common subject, holding land by rent. If this be granted to him, it is next to be seen under what terms he is of opinion such a landholder, that is a British subject, holds his life and property under the Company's government. It is proper to understand well the doctrines of the person whose administration has lately received such distinguished approbation from the Company. His doctrine is, 'that the Company, or the *person delegated by it*, holds *an absolute* authority over such zemindars;—that he (such a subject) owes an *implicit* and *unreserved* obedience to its authority, at the *forfeiture* even of his *life and property*, at the DISCRETION of those who held, or *fully represented*, the sovereign authority; and that *these* rights are *fully* delegated *to him*, Mr. Hastings.'

"Such is a British governor's idea of the condition of a great zemindar holding under British authority: and this kind of authority he supposes fully delegated to *him*,—though no such delegation appears in any commission, instruction, or Act of Parliament. At his *discretion*, he may demand

* See Introduction to Mr. Sheridan's speech, before referred to, p. 106.

of the substance of any zemindar over and above his rent or tribute, even what he pleases, with a sovereign authority; and if he does not yield an *implicit, unreserved* obedience to all his commands, he forfeits his lands, his life, and his property, at Mr. Hastings's *discretion.* But, extravagant, and even frantic, as these positions appear, they are less so than what I shall now read to you; for he asserts, that if any one should urge an exemption from more than a stated payment, or should consider the deeds, which passed between him and the Board, 'as bearing *the quality and force* of a treaty between equal states,' he says, 'that such an opinion is itself criminal to the state of which he is a subject;' and 'that he was himself amenable to its justice, if he gave *countenance* to such a *belief.*' Here is a new species of crime invented, that of countenancing a belief—but a belief of what? A belief of that which the Court of Directors, Hastings's masters, and a committee of this House, have decided as this prince's indisputable right.

"But supposing the rajah of Benares to be a mere subject, and that subject a criminal of the highest form; let us see what course was taken by an upright English magistrate. Did he cite this culprit before his tribunal? Did he make a charge? Did he produce witnesses? These are not forms: they are forms of substantial and eternal justice. No, not a word of all this. Mr. Hastings concludes him, *in his own mind,* to be guilty; he makes this conclusion on reports, on hearsays, on appearances, on rumours, on conjectures, on presumptions; and even these never once hinted to the party, nor publicly to any human being, till the whole business was done.

"But the governor tells you his motive for this extraordinary proceeding, so contrary to every mode of justice towards either a prince or a subject, fairly and without disguise, and he puts into your hands the key of his whole conduct:—'I will suppose, for a moment, that I have acted with unwarrantable rigour towards Cheit Sing, and even with injustice. Let my MOTIVE be consulted. I left Calcutta, impressed with a belief that *extraordinary means* were necessary, and those exerted with a *steady hand,* to preserve the Company's *interests from sinking under the accumulated weight which oppressed them.* I saw a *political necessity* for curbing the *overgrown* power of a great member of their dominion, and for *making it contribute to the relief of their pressing exigencies.*' This is plain speaking; after this, it is no wonder that the rajah's wealth and his offence, the necessities of the judge, and the opulence of the delinquent, are never separated, through the whole of Mr. Hastings's apology. 'The justice and *policy* of exacting *a large pecuniary mulct.*' The resolution '*to draw from his guilt* the means *of relief to the Company's distresses.*' His determination 'to make him *pay largely* for his pardon, or to execute a severe vengeance for past delinquency.' That 'as his *wealth was great,* and the *Company's exigencies* pressing, he thought it a measure of justice and policy to exact from him a large pecuniary mulct for *their relief.*' 'The sum,' (says Mr. Wheeler, bearing evidence, at his desire, to his intentions,) 'to which the Governor declared his resolution to extend his fine, was forty or fifty lacs, that is, *four or five hundred thousand pounds;*

and that if he refused, he was to be removed from his zemindary entirely; or by taking possession of his forts, to obtain *out of the treasure deposited in them*, the above sum for the Company.

"Crimes so convenient, crimes so politic, crimes so necessary, crimes so alleviating of distress, can never be wanting to those who use no process, and who produce no proofs.

"But there is another serious part (what is not so?) in this affair. Let us suppose that the power for which Mr. Hastings contends,—a power which no sovereign ever did or ever can vest in any of his subjects, namely, his own sovereign authority,—to be conveyed by the Act of Parliament to any man or body of men whatsoever; it certainly was never given to Mr. Hastings. The powers given by the Act of 1773* were formal and official; they were given not to the Governor-general, but to the major vote of the Board, as a board, on discussion amongst themselves, in their public character and capacity; and their acts in that character and capacity were to be ascertained by records and minutes of council. The despotic acts exercised by Mr. Hastings were done merely in his private character; and, if they had been moderate and just, would still be the acts of an usurped authority, and without any one of the legal modes of proceeding which could give him competence for the most trivial exertion of power. There was no proposition or deliberation whatsoever in council—no minute on record, by circulation or otherwise, to authorise his proceedings—no delegation of power to impose a fine, or to take any step to deprive the rajah of Benares of his government, his property, or his liberty. The minutes of consultation assign to his journey a totally different object, duty, and destination. Mr. Wheeler, at his desire, tells us long after, that he had a confidential conversation with him on various subjects, of which this was the principal, in which Mr. Hastings notified to him his secret intentions; 'and that he *bespoke* his support of the measures which he intended to pursue towards him (the Rajah).' This confidential discourse, and *bespeaking* of support, could give him no power, in opposition to an express Act of Parliament, and the whole tenor of the orders of the Court of Directors.

"In what manner the powers thus usurped were employed is known to the whole world. All the House knows, that the design on the Rajah proved as unfruitful as it was violent. The unhappy prince was expelled, and his more unhappy country was enslaved and ruined; but not a rupee was acquired. Instead of treasure to recruit the Company's finances, wasted by their wanton wars and corrupt jobs, they were plunged into a new war which shook their power in India to its foundation;† and, to use the Governor's own happy simile, might have dissolved it like a magic structure, if the talisman had been broken.

"But the success is no part of my consideration, who should think just the

* The Regulating Act of 13 Geo. III., c. 63.

† The war with Hyder Ali in the Mysore.

same of this business, if the spoil of one Rajah had been fully acquired, and faithfully applied to the destruction of twenty other Rajahs.* Not only the arrest of the Rajah in his palace was unnecessary and unwarrantable, and calculated to stir up any manly blood which remained in his subjects; but the despotic style, and the extreme insolence of language and demeanour, used to a person of great condition among the politest people in the world, was intolerable. Nothing aggravates tyranny so much as contumely. '*Quicquid superbia in contumeliis*' was charged by a great man of antiquity, as a principal head of offence against the Governor-general of that day. The unhappy people were still more insulted. A relation, but an *enemy* to the family, a notorious robber and villain, called Ussaun Sing, kept as a hawk in a mew, to fly upon this nation, was set up to govern there, instead of a prince honoured and beloved. But when the business of insult was accomplished, the revenue was too serious a concern to be entrusted to such hands. Another was set up in his place, as guardian to an infant.

"But here, Sir, mark the effect of all these *extraordinary* means, of all this policy and justice. The revenues which had been hitherto paid with such astonishing punctuality, fell into arrear. The new prince guardian was deposed without ceremony; and, with as little, cast into prison. The government of that once happy country has been in the utmost confusion ever since such good order was taken about it. But to complete the contumely offered to this undone people, and to make them feel their servitude in all its degradation and all its bitterness, the government of their sacred city, the government of that Benares which had been so respected by Persian and Tartar conquerors, though of the Mussulman persuasion, that even in the plenitude of their pride, power, and bigotry, no magistrate of that sect entered the place, was now delivered over by English hands to a Mahometan; and an Ali Ibrahim Khan was introduced, under the Company's authority, with power of life and death, into the sanctuary of the Gentoo religion.

"After this, the taking of a slight payment, cheerfully made by pilgrims to a chief of their own rights, was represented as a mighty benefit. It remains only to show, through the conduct in this business, the spirit of the Company's government, and the respect they pay towards other prejudices not less regarded in the East than those of religion; I mean the reverence paid to the female sex in general, and particularly to women of high rank and condition.

* Although nothing was gained by the attempt on Cheit Sing, yet the wealth which the Company obtained by the confiscation of the property of the Begums, contributed much, at a very critical period, to their success in prosecuting the war against Hyder Ali in the Mysore, and detaching the Mahratta chief, Scindia, from his alliance. To maintain their influence it was absolutely necessary to the Company to procure money by some expeditious means or other; and although the oppressive conduct of Warren Hastings may have been unjustifiable, on the ground that what is morally wrong can never be politically right, yet it is generally admitted that, under a more scrupulous government than his, the English dominion in India, which was in a most critical position, would most probably have been annihilated.

During the general confusion of the country of Gazypore, Panna, the mother of Cheit Sing, was lodged with her train in a castle called Bidgé Gur, in which were likewise deposited a large portion of the treasures of her son, or more probably her own. To whomsoever they belonged was indifferent; for though no charge of rebellion was made on this woman (which was rather singular, as it would have cost nothing) they were resolved to secure her with her fortune. The castle was besieged by Major Popham.

"There was no great reason to apprehend that soldiers ill paid, that soldiers who thought they had been defrauded of their plunder on former services of the same kind, would not have been sufficiently attentive to the spoil they were expressly come for; but the gallantry and generosity of the profession was justly suspected, as being likely to set bounds to military rapaciousness. The Company's first civil magistrate discovered the greatest uneasiness lest the women should have anything preserved to them. Terms tending to put some restraint on military violence were granted. He writes a letter to Mr. Popham, referring to some letter written before to the same effect, which I do not remember to have seen; but it shows his anxiety on this subject. Hear himself:—'I think every demand she has made on you, except that of safety and respect to her person, is unreasonable. If the reports brought to me are true, your rejecting her offers, or any negotiation, would soon obtain you the fort upon your own terms. I apprehend she will attempt to defraud the captors of a considerable part of their booty, by being suffered to retire without examination. But this is your concern, not mine. I should *be very sorry* that your officers and soldiers lost any part of the reward to which they are so well entitled; but you must be the best judge of the *promised* indulgence to the Ranny: what you have engaged for, I will certainly ratify; but as to suffering the Ranny to hold the purgunna of Hurlich, or any other zemindary, without being subject to the authority of the zemindar, or any lands whatsoever, or indeed making any condition with her for a provision, I will never consent.'*

"Here your governor stimulates a rapacious and licentious soldiery to the personal search of women, lest these unhappy creatures should avail themselves of the protection of their sex to secure any supply for their necessities; and he positively orders that no stipulation should be made for any provision for them. The widow and mother of a prince, well informed of her miserable situation, and the cause of it, a woman of this rank became a suppliant to the domestic servant of Mr. Hastings (they are his own words that I read); 'imploring his intercession, that she may be relieved from the hardships and dangers of her present situation; and offering to surrender the fort, and the

* By the terms of the capitulation on the surrender of Bidgegur, it was agreed that, on everything in the fortress being given up, the females should be exempted from search; but the capitulation was violated on the part of the besiegers in this particular. After the spoil, Mr. Hastings tried to retract his expressions, and to make the army deliver up the plunder which he had authorised, but they positively refused to surrender it.

treasure and valuable effects contained in it, provided she can be assured *of safety and protection to her person and honour*, and to that of her family and attendants.' He is so good as to consent to this, 'provided she surrenders everything of value, with the reserve only of such articles as you shall think necessary to her condition, or as you yourself shall be disposed to indulge her with. But should she refuse to execute the promise she has made, or delay it beyond the term of twenty-four hours, it is my positive injunction, that you immediately put a stop to any further intercourse or negotiation with her, and on no pretext renew it. If she disappoints or trifles with me, after I have subjected my duan to the disgrace of returning ineffectually, and of course myself to discredit, I shall consider it as a wanton affront and dignity which I can never forgive; nor will I grant her any conditions whatever, but leave her exposed to those dangers which she has chosen to risk, rather than trust to the clemency and generosity of our government. I think she cannot be ignorant of these consequences, and will not venture to incur them; and it is for this reason I place a dependence on her offers, and have consented to send my duan to her.' The dreadful secret hinted at by the merciful governor in the latter part of the letter, is well understood in India; where those who suffer corporeal indignities, generally expiate the offences of others with their own blood. However, in spite of all these, the temper of the military did some way or other operate. They came to terms which have never been transmitted. It appears that a fifteenth per cent. of the plunder was reserved to the captives, of which the unhappy mother of the prince of Benares was to have a share. This ancient matron, born to better things [a laugh from certain young gentlemen]—I see no cause for this mirth. A good author of antiquity reckons among the calamities of his time, *Nobilissimarum fœminarum exilia et fugas.* I say, Sir, this ancient lady was compelled to quit her house with three hundred helpless women, and a multitude of children in her train; but the lower sort in the camp, it seems, could not be restrained. They did not forget the good lessons of the Governor-general. They were unwilling 'to be defrauded of a considerable part of their booty, by suffering them to pass without examination.'—They examined them, Sir, with a vengeance, and the sacred protection of that awful character, Mr. Hastings's *maître d'hotel*, could not secure them from insult and plunder. Here is Popham's narrative of the affair:—'The Ranny came out of the fort, with her family and dependants, the tenth at night, owing to which, such attention was not paid to her as I wished; and I am exceedingly sorry to inform you, that the licentiousness of our followers was beyond the bounds of control; for, notwithstanding all I could do, her people were plundered on the road of most of the things which they brought out of the fort, by which means one of the articles of surrender has been much infringed. The distress I have felt upon this occasion cannot be expressed, and can only be allayed by a firm performance of the other articles of the treaty, which I shall make it my business to enforce.

"'The suspicions which the officers had of treachery, and the delay made to our getting possession, had enraged them, as well as the troops, so much,

that the treaty was at first regarded as void, but this determination was soon succeeded by pity and compassion for the unfortunate besieged,' After this comes, in his due order, Mr. Hastings; who is full of sorrow and indignation, &c., &c., &c., according to the best and most authentic precedents established upon such occasions.

"The women being thus disposed of, that is, completely despoiled and pathetically lamented, Mr. Hastings at length recollected the great object of his enterprise, which, during his zeal lest the officers and soldiers should lose any part of their reward, he seems to have forgot; that is to say, 'to draw from the Rajah's guilt the means of relief to the Company's distresses.' This was to be the stronghold of his defence. This compassion to the Company, he knew by experience would sanctify a great deal of rigour towards the natives. But the military had distresses of their own, which they considered first. Neither Mr. Hastings's authority, nor his supplications, could prevail on them to assign a shilling to the claim he made on the part of the Company. They divided the booty amongst themselves. Driven from his claim, he was reduced to petition for the spoil as a loan. But the soldiers were too wise to venture as a loan what the borrower claimed as a right. In defiance of all authority, they shared among themselves about £200,000 sterling, besides what had been taken from the women.

"In all this there is nothing wonderful. We may rest assured, that when the maxims of any government establish among its resources extraordinary means, and those exerted with a strong hand, that strong hand will provide those extraordinary means for itself. Whether the soldiers had reason or not (perhaps much might be said for them), certain it is, the military discipline of India was ruined from that moment; and the same rage for plunder, the same contempt of subordination, which blasted all the hopes of extraordinary means from your strong hand at Benares, have very lately lost you an army in Mysore. This is visible enough from the accounts in the last Gazette.

"There is no doubt but that the country and city of Benares, now brought into the same order, will very soon exhibit, if it does not already display, the same appearances with those countries and cities which are under better subjection. A great master, Mr. Hastings, has himself been at the pains of drawing a picture of one of these countries, I mean the province and city of Farruckabad. There is no reason to question his knowledge of the facts; and his authority, on this point, at least, is above all exception, as well for the state of the country as for the cause. In his minute of consultation, Mr. Hastings describes forcibly the consequences which arise from the degradation into which we have sunk the native government: 'The total want,' says he, 'of all order, regularity, or authority, in his (the Nabob of Farruckabad's) government. and to which, among other obvious causes, it may no doubt be owing that the country of Farruckabad is become almost an entire waste, without cultivation or inhabitants; that the capital, which,

but a very short time ago was distinguished as one of the most populous and opulent commercial cities in Hindostan, at present exhibits nothing but scenes of the most wretched poverty, desolation, and misery; and that the Nabob himself,* though in the possession of a tract of country which, with only common care, is notoriously capable of yielding an annual revenue of between thirty and forty lacs (three or four hundred thousand pounds), with no military establishment to maintain, scarcely commands the means of a bare subsistence.'

" This is a true and unexaggerated picture, not only of Farruckabad, but of, at least, three-fourths of the country which we possess, or rather lay waste, in India. Now, Sir, the House will be desirous to know for what purpose this picture was drawn. It was for a purpose, I will not say, laudable, but necessary—that of taking the unfortunate Prince and his country out of the hands of a sequestrator sent thither by the Nabob of Oude, the mortal enemy of the prince thus ruined, and to protect him by means of a British resident, who might carry his complaints to the superior resident at Oude, or transmit them to Calcutta. But mark how the reformer persisted in his reformation. The effect of the measure was better than was probably expected. The Prince began to be at ease; the country began to recover; and the revenue began to be collected. These were alarming circumstances. Mr. Hastings not only recalled the resident, but he entered into a formal stipulation with the Nabob of Oude, never to send an English subject again to Farruckabad; and thus the country, described as you have heard by Mr. Hastings, is given up for ever to the very persons to whom he had attributed its ruin, that is, to the sezawals, or sequestrators, of the Nabob of Oude.

" Such was the issue of the first attempt to relieve the distresses of the dependent provinces. I shall close what I have to say on the condition of the northern dependencies, with the effect of the last of these attempts. You will recollect, Sir, the account I have not long ago stated to you as given by Mr. Hastings, of the ruined condition of the destroyer of others, the Nabob of Oude, and of the recall in consequence of Hannay, Middleton, and Johnson.† When the first sudden gust of passion againt these gentlemen was spent, the sentiments of old friendship began to revive. Some healing conferences were held between them and the superior Government. Mr. Hannay was permitted to return to Oude; but death prevented the further advantages intended for him, and the future benefits proposed for the country by the provident care of the Council General.‡

" One of these gentlemen was accused of the grossest peculations.§ Two of them by Mr. Hastings himself, of what he considered as very gross offences. The Court of Directors were informed, by the Governor-general

* Fizoolla Khan. See note, p. 691.

† The resident agents.

‡ See, *ante*, p. 145.

§ Mr. Middleton. See, *ante*, pp. 151, 152. As to Colonel Hannay, see, *ante*, p. 145.

and Council, that a severe inquiry would be instituted against the two survivors; and they requested that court to suspend its judgment, and to wait the event of their proceedings. A mock inquiry has been instituted, by which the parties could not be said to be either acquitted or condemned. By means of the bland and conciliatory dispositions of the charter governors, and proper private explanations, the public inquiry has, in effect, died away; the supposed peculators and destroyers of Oude repose in all security in the bosoms of their accusers; whilst others succeed to them to be instructed by their example.

"It is only to complete the view I proposed of the conduct of the Company, with regard to the dependent provinces, that I shall say anything at all of the Carnatic, which is the scene, if possible, of greater disorder than the northern provinces.* Perhaps it were better to say of this centre and metropolis of abuse, whence all the rest in India and in England diverge—from whence they are fed and methodised—what was said of Carthage, '*De Carthagine satius est silere quam parum dicere.*' This country, in all its denominations, is about 46,000 square miles. It may be affirmed universally, that not one person of substance or property, landed, commercial, or monied, excepting two or three bankers, who are necessary deposits and distributors of the general spoil, is left in all that region. In that country the moisture, the bounty of heaven, is given but at a certain season. Before the era of our influence, the industry of man carefully husbanded that gift of God. The Gentoos preserved, with a provident and religious care, the precious deposit of the periodical rain in reservoirs, many of them works of royal grandeur; and from these, as occasion demanded, they fructified the whole country. To maintain these reservoirs, and to keep up an annual advance to the cultivators, for seed and cattle, formed a principal object of the piety and policy of the priests and rulers of the Gentoo religion.

"This object required a command of money; and there was no pollam, or castle, which in the happy days of the Carnatic was without some hoard of treasure, by which the governors were enabled to combat with the irregularity of the seasons, and to resist or to buy off the invasion of an enemy. In all the cities were multitudes of merchants and bankers for all occasions of monied assistance; and, on the other hand, the native princes were in condition to obtain credit from them. The manufacturer was paid by the return of commodities, or by imported money, and not, as at present, in the taxes that had been originally exacted from his industry. In aid of casual distress, the country was full of choultries, which were inns and hospitals, where the traveller and the poor were relieved. All ranks of people had their place in the public concern, and their share in the common stock and common prosperity; but *the chartered rights of men*, and the right which it was thought proper to set up in the nabob of Arcot,† introduced a new

* The Carnatic was not taken under British dominion till 1802.

† Mahomet Ali.

system. It was their policy to consider hoards of money as crimes; to regard moderate rents as frauds on the sovereign; and to view, in the lesser princes, any claim of exemption from more than settled tribute, as an act of rebellion. Accordingly all the castles were, one after the other, plundered and destroyed. The native princes were expelled; the hospitals fell to ruin; the reservoirs of water went to decay; the merchants, bankers, and manufacturers disappeared; and sterility, indigence, and depopulation, overspread the face of these once flourishing provinces.

"The Company was very early sensible of these mischiefs, and of their true cause. They gave precise orders 'that the native princes, called polygars, should *not be extirpated:*' 'that the rebellion [so they choose to call it] of the polygars may, they fear, *with too much justice*, be attributed to the mal-administration of the Nabob's collectors:' that 'they observe with concern, that their troops have been put to *disagreeable* services.' They might have used a stronger expression without impropriety. But they make amends in another place. Speaking of the polygars, the Directors say, that 'it was repugnant to humanity to *force* them to such dreadful extremities *as they underwent:*' that some examples of severity might be necessary, 'when they fell into the nabob's hands,' *and not by the destruction of the country:* 'that *they fear* his government is *none of the mildest;* and that there is *great oppression* in collecting his revenues.' They state, that the wars in which he has involved the Carnatic, had been a cause of its distresses: 'that these distresses have been certainly great; but those by *the Nabob's oppressions* we believe *to be greater than all.*' Pray, Sir, attend to the reason for their opinion that the government of this their instrument is more calamitous to the country than the ravages of war. Because, say they, his oppressions are '*without intermission*—the others are temporary; by all which *oppressions* we believe the Nabob has great wealth in store.' From this store neither he nor they could derive any advantage whatsoever, upon the invasion of Hyder Ali, in the hour of their greatest calamity and dismay.

"It is now proper to compare these declarations with the Company's conduct. The principal reason which they assigned against the *extirpation* of the polygars was, that the *weavers* were protected in their fortresses. They might have added, that the Company itself, which stung them to death, had been warmed in the bosom of these unfortunate princes: for, on the taking of Madras by the French,* it was in their hospitable pollams, that most of the inhabitants found refuge and protection. But, notwithstanding all these orders, reasons, and declarations, they at length gave an indirect sanction, and permitted the use of a very direct and irresistible force, to measures which they had, over and over again, declared to be false policy, cruel, inhuman, and oppressive. Having, however, forgot all attention to the princes and the people, they remembered

* In the year 1746.

that they had some sort of interest in the trade of the country; and it is matter of curiosity to observe the protection which they afforded to this their natural object.

"Full of anxious cares on this head, they direct, 'that in reducing the polygars they (their servants) were to be *cautious*, not to deprive the *weavers and manufacturers* of the protection they often met with in the strongholds of the polygar countries;' and they write to their instrument, the Nabob of Arcot, concerning these poor people, in a most pathetic strain. 'We *entreat* your Excellency,' say they, 'in particular, to make the manufacturers the object of your *tenderest care;* particularly when you *root out* the polygars, you do not deprive the *weavers of the protection they enjoyed under them.*' When they root out the protectors in favour of the oppressor, they show themselves religiously cautious of the rights of the protected. When they extirpate the shepherd and the shepherd's dog, they piously recommend the helpless flock to the mercy, and even to the *tenderest care*, of the wolf. This is the uniform strain of their policy, strictly forbidding, and at the same time strenuously encouraging and enforcing every measure that can ruin and desolate the country committed to their charge. After giving the Company's idea of the government of this their instrument, it may appear singular, but it is perfectly consistent with their system, that, besides wasting for him, at two different times, the most exquisite spot upon the earth, Tanjore,* and all the adjacent countries, they have even voluntarily put their own territory, that is, a large and fine country adjacent to Madras, called their Jaghire,† wholly out of their protection; and have continued to farm their subjects, and their duties towards these subjects, to that very nabob, whom they themselves constantly represent as an habitual oppressor, and a relentless tyrant. This they have done without any pretence of ignorance of the objects of oppression for which this prince has thought fit to become their renter; for he has again and again told them, that it is for the sole purpose of exercising authority he holds the jaghire lands; and he affirms (and I believe with truth) that he pays more for that territory than the revenues yield. This deficiency he must make up from his other territories; and thus, in order to furnish the means of oppressing one part of the Carnatic, he is led to oppress all the rest.

"The House perceives that the livery of the Company's government is uniform. I have described the condition of the countries indirectly, but most substantially, under the Company's authority. And now I ask, whether, with this map of misgovernment before me, I can suppose myself bound by my vote to continue, upon any principles of pretended public faith, the management of these countries in those hands? If I kept such a faith (which in reality is no better than a *fides latronum*) with what is called the

* See *ante*, note, p. 684; and introduction to the Speech on the Nabob of Arcot's Debts, *post*, p. 728.

† The Company's Jaghire, near Madras, was obtained from the Nabob of Arcot n 1765.

Company, I must break the faith, the covenant, the solemn, original, indispensable oath, in which I am bound, by the eternal frame and constitution of things, to the whole human race.

"As I have dwelt so long on these who are indirectly under the Company's administration, I will endeavour to be a little shorter upon the countries immediately under this charter government. These are the Bengal provinces. The condition of these provinces is pretty fully detailed in the sixth and ninth reports, and in their appendices. I will select only such principles and instances as are broad and general. To your own thoughts I shall leave it, to furnish the detail of oppressions involved in them. I shall state to you, as shortly as I am able, the conduct of the Company;—1st, towards the landed interests; next, to the commercial interests; 3rdly, the native government; and lastly, to their own government.

"Bengal, and the provinces that are united to it, are larger than the kingdom of France; and once contained, as France does contain, a great and independent landed interest, composed of princes, of great lords, of a numerous nobility and gentry, of freeholders, of lower tenants, of religious communities, and public foundations. So early as 1769,* the Company's servants perceived the decay into which these provinces had fallen under English administration, and they made a strong representation upon this decay, and what they apprehended to be the causes of it. Soon after this representation, Mr. Hastings became President of Bengal. Instead of administering a remedy to this melancholy disorder, upon the heels of a dreadful famine, in the year 1772, the succour which the new President and the Council lent to this afflicted nation was—shall I be believed in relating it?—the landed interest of a whole kingdom, of a kingdom to be compared to France, was set up to public auction!† They set up (Mr. Hastings set up) the whole nobility, gentry, and freeholders, to the highest bidder. No preference was given to the ancient proprietors. They must bid against every usurer, every temporary adventurer, every jobber and schemer, every servant of every European, or they were obliged to content themselves, in lieu of their extensive domains, with their house, and such a pension as the state auctioneers thought fit to assign. In this general calamity, several of the first nobility thought (and in all appearance justly) that they had better submit to the necessity of this pen-

* The British acquired the province of Bengal from the Mogul Emperor, Shah Allum, in 1765, and it was on this occasion that the Company agreed to make him an annual payment of twenty-six lacs of rupees, equal at that time to about £300,000, and which annuity was considered to have been forfeited, when the Emperor, in 1771, voluntarily placed himself in the hands of the Mahrattas.

† What Mr. Burke here complains of was the alteration in the dewannee, or collection of the revenue, introduced by Mr. Hastings. Under his administration the Company took the dewannee into their own hands, letting out their lands on long leases, and the Zemindars, the ancient tributaries, when they offered reasonable terms for the lands, which previously they had entirely under their own control, were preferred; but when their offers were rejected as insufficient, they themselves were allowed a pension for their subsistence, and the lands put up to sale.

sion, than continue, under the name of zemindars, the objects and instruments of a system by which they ruined their tenants, and were ruined themselves. Another reform has since come upon the back of the first; and a pension having been assigned to these unhappy persons, in lieu of their hereditary lands, a new scheme of economy has taken place, and deprived them of that pension.

"The menial servants of Englishmen, persons (to use the emphatical phrase of a ruined and patient eastern chief) '*whose fathers they would not have set with the dogs of their flock*,' entered into their patrimonial lands. Mr. Hastings's banian was, after this auction, found possessed of territories yielding a rent of £140,000 a-year.

"Such an universal proscription, upon any pretence, has few examples. Such a proscription, without even a pretence of delinquency, has none. It stands by itself. It stands as a monument to astonish the imagination, to confound the reason of mankind. I confess to you, when I first came to know this business in its true nature and extent, my surprise did a little suspend my indignation. I was in a manner stupified by the desperate boldness of a few obscure young men, who having obtained, by ways which they could not comprehend, a power of which they saw neither the purposes nor the limits, tossed about, subverted, and tore to pieces, as if it were in the gambols of a boyish unluckiness and malice, the most established rights, and the most ancient and most revered institutions, of ages and nations. Sir, I will not now trouble you with any detail, with regard to what they have since done with these same lands and landowners; only to inform you, that nothing has been suffered to settle for two seasons together upon any basis; and that the levity and inconstancy of these mock legislators were not the least afflicting parts of the oppressions suffered under their usurpation; nor will anything give stability to the property of the natives, but an administration in England at once protecting and stable. The country sustains, almost every year, the miseries of a revolution. At present, all is uncertainty, misery, and confusion. There is to be found through these vast regions no longer one landed man, who is a resource for voluntary aid, or an object for particular rapine. Some of them were, not long since, great princes; they possessed treasures, they levied armies. There was a zemindar in Bengal (I forget his name) that, on the threat of an invasion, supplied the soubah of these provinces with the loan of a million sterling. The family at this day wants credit for a breakfast at the bazaar.

"I shall now say a word or two on the Company's care of the commercial interests of those kingdoms. As it appears in the reports, that persons in the highest stations in Bengal have adopted, as a fixed plan of policy, the destruction of all intermediate dealers between the Company and the manufacturer, native merchants have disappeared of course. The spoil of the revenues is the sole capital which purchases the produce and manufactures; and through three or four foreign companies transmits the official gains of individuals to Europe. No other commerce has an existence in Bengal. The transport of its plunder is the only traffic of the country. I wish to

refer you to the appendix to the ninth report for a full account of the manner in which the Company have protected the commercial interests of their dominions in the east.

"As to the native government, and the administration of justice, it subsisted in a poor tottering manner for some years. In the year 1781, a total revolution took place in that establishment. In one of the usual freaks of legislation of the Council of Bengal, the whole criminal jurisdiction of these courts, called the Phoujdary Judicature, exercised till then by the principal Mussulmen, was, in one day, without notice, without consultation with the magistrates or the people there, and without communication with the Directors or Ministers here, totally subverted. A new institution took place, by which this jurisdiction was divided between certain English servants of the Company and the Gentoo zemindars of the country, the latter of whom never petitioned for it, nor, for aught that appears, ever desired this boon. But its natural use was made of it; it was made a pretence for new extortions of money.

"The natives had, however, one consolation in the ruin of their judicature; they soon saw that it fared no better with the English Government itself. That, too, after destroying every other, came to its period. This revolution may well be rated for a most daring act, even among the extraordinary things that have been doing in Bengal since our unhappy acquisition of the means of so much mischief.

"An establishment of English government for civil justice, and for the collection of revenue, was planned and executed by the President and Council of Bengal, subject to the pleasure of the Directors, in the year 1772. According to this plan, the country was divided into six districts or provinces. In each of these was established a provincial council, which administered the revenue; and of that council one member, by monthly rotation, presided in the courts of civil resort; with an appeal to the council of the province, and thence to Calcutta. In this system (whether, in other respects, good or evil) there were some capital advantages. There was in the very number of persons in each provincial council, authority, communication, mutual check, and control. They were obliged, on their minutes of consultation, to enter their reasons and dissents; so that a man of diligence, of research, and tolerable sagacity, sitting in London, might from these materials be enabled to form some judgment of the spirit of what was going on on the furthest banks of the Ganges and Burrampooter.

"The Court of Directors so far ratified this establishment (which was consonant enough to their general plan of government), that they gave precise orders that no alteration should be made in it without their consent. So far from being apprised of any design against this constitution, they had reason to conceive that, on trial, it had been more and more approved by their Council-general, at least by the Governor-general, who had planned it. At the time of the revolution, the Council-general was nominally in two persons, virtually in one. At the time, measures of an arduous and critical nature ought to have been

forborne, even if, to the fullest council, this specific measure had not been prohibited by the superior authority. It was in this very situation, that one man had the hardiness to conceive, and the temerity to execute, a total revolution in the form and the persons composing the government of a great kingdom. Without any previous step, at one stroke, the whole constitution of Bengal, civil and criminal, was swept away. The councillors were recalled from their provinces; upwards of fifty of the principal officers of government were turned out of employ, and rendered dependent on Mr. Hastings for their immediate subsistence, and for all hope of future provision. The chief of each council, and one European collector of revenue, was left in each province.

"But here, Sir, you may imagine a new government, of some permanent description, was established in the place of that which had been thus suddenly overturned. No such thing. Lest these chiefs, without councils, should be conceived to form the ground-plan of some future government, it was publicly declared, that their continuance was only temporary and permissive. The whole subordinate British administration of revenue was then vested in a committee in Calcutta, all creatures of the Governor-general; and the provincial management, under the permissive chief, was delivered over to native officers.

"But, that the revolution, and the purposes of the revolution, might be complete, to this committee were delegated, not only the functions of all the inferior, but, what will surprise the House, those of the supreme administration of revenue also. Hitherto the Governor-general and council had, in their revenue department, administered the finances of those kingdoms. By the new scheme they are delegated to this committee, who are only to report their proceedings for approbation.

"The key to the whole transaction is given in one of the instructions to the committee, 'that it is not necessary that they should enter dissents.' By this means the ancient plan of the Company's administration was destroyed; but the plan of concealment was perfected. To that moment the accounts of the revenues were tolerably clear; or, at least, means were furnished for inquiries, by which they might be rendered satisfactory. In the obscure and silent gulph of this committee everything is now buried. The thickest shades of night surround all their transactions. No effectual means of detecting fraud, mismanagement, or misrepresentation, exist. The Directors, who have dared to talk with such confidence on their revenues, know nothing about them. What used to fill volumes is now comprised under a few dry heads on a sheet of paper. The natives, a people habitually made to concealment, are the chief managers of the revenue throughout the provinces. I mean by natives, such wretches as your rulers select out of them as most fitted for their purposes. As a proper key-stone to bind the arch, a native, one Gunga Govind Sing, a man turned out of his employment by Sir John Clavering, for malversation in office, is made the corresponding secretary; and, indeed, the great moving principle of their new board.

"As the whole revenue and civil administration was thus subverted, and a clandestine government substituted in the place of it, the judicial institution underwent a like revolution. In 1772, there had been six courts formed out of the six provincial councils. Eighteen new ones are appointed in their place, with each a judge, taken from the *junior* servants of the Company. To maintain these eighteen courts, a tax is levied on the sums in litigation, of two and a half per cent. on the great, and of five per cent. on the less. This money is all drawn from the provinces to Calcutta. The chief justice* (the same who stays in defiance of a vote of this House, and of his Majesty's recall,) is appointed at once the treasurer and disposer of these taxes, levied, without any sort of authority from the Company, from the Crown, or from Parliament.

"In effect, Sir, every legal authority in matters of revenue, of political administration, of criminal law, of civil law, in many of the most essential parts of military discipline, is laid level with the ground; and an oppressive, irregular, capricious, unsteady, rapacious, and peculating despotism, with a direct disavowal of obedience to any authority at home, and without any fixed maxim, principle, or rule of proceeding, to guide them in India, is at present the state of your charter-government over great kingdoms.

"As the Company has made this use of their trust, I should ill discharge mine if I refused to give my most cheerful vote for the redress of these abuses, by putting the affairs of so large and valuable a part of the interests of this nation, and of mankind, into some steady hands, possessing the confidence, and assured of the support of this House, until they can be restored to regularity, order, and consistency.

"I have touched the heads of some of the grievances of the people, and the abuses of government. But I hope and trust you will give me credit when I faithfully assure you, that I have not mentioned one-fourth part of what has come to my knowledge in your committee; and further, I have full reason to believe, that not one-fourth part of the abuses are come to my knowledge, by that or by any other means. Pray consider what I have said only as an index to direct you in your inquiries.

"If this, then, Sir, has been the use made of the trust of political powers, internal and external, given by you in the charter, the next thing to be seen is the conduct of the Company with regard to the commercial trust. And here I will make a fair offer:—If it can be proved that they have acted wisely, prudently, and frugally, as merchants, I shall pass by the whole mass of their enormities as statesmen. That they have not done this, their present condition is proof sufficient. Their distresses are said to be owing to their wars. This is not wholly true; but if it were, is not that readiness to engage in wars which distinguishes them, and for which the committee of secrecy has so branded their politics, founded on the falsest principles of mercantile speculation?

* Sir Elijah Impey, Chief Justice of Bengal, who had been recalled in 1782.

"The principle of buying cheap and selling dear is the first, the great foundation of mercantile dealing. Have they ever attended to this principle? Nay, for years have they not actually authorised in their servants a total indifference as to the prices they were to pay?

"A great deal of strictness in driving bargains for whatever we contract, is another of the principles of mercantile policy. Try the Company by that test! Look at the contracts that are made for them. Is the Company so much as a good commissary to their own armies? I engage to select for you, out of the innumerable mass of their dealings, all conducted very nearly alike, one contract only, the excessive profits on which during a short term would pay the whole of their year's dividend. I shall undertake to show, that upon two others, the inordinate profits given, with the losses incurred in order to secure those profits, would pay a year's dividend more.

"It is a third property of trading men, to see that their clerks do not divert the dealings of the master to their own benefit. It was the other day only, when their Governor and Council taxed the Company's investment with a sum of £50,000, as an inducement to persuade only seven members of their Board of Trade to give their *honour* that they would abstain from such profits upon that investment as they must have violated their *oaths* if they had made at all.

"It is a fourth quality of a merchant to be exact in his accounts. What will be thought, when you have fully before you the mode of accounting made use of in the treasury of Bengal?—I hope you will have it soon. With regard to one of their agencies, when it came to the material part, the prime cost of the goods on which a commission of fifteen per cent. was allowed, to the astonishment of the factory to whom the commodities were sent, the Accountant-general reports, that he did not think himself authorised to call for *vouchers* relative to this and other particulars—because the agent was then upon his *honour* with regard to them. A new principle of account upon honour seems to be regularly established in their dealings and their treasury, which in reality amounts to an entire annihilation of the principle of all accounts.

"It is a fifth property of a merchant, who does not meditate a fraudulent bankruptcy, to calculate his probable profits upon the money he takes up to vest in business. Did the Company, when they bought goods on bonds bearing eight per cent. interest, at ten and even twenty per cent. discount, even ask themselves a question concerning the possibility of advantage from dealing on these terms?

"The last quality of a merchant I shall advert to, is the taking care to be properly prepared, in cash or goods, in the ordinary course of sale, for the bills which are drawn on them. Now, I ask, whether they have ever calculated the clear produce of any given sales, to make them tally with the four million of bills which are come and coming upon them, so as at the proper periods to enable the one to liquidate the other? No, they have not. They are now obliged to borrow money of their own servants to purchase their

investment. The servants stipulate five per cent. on the capital they advance, if their bills should not be paid at the time when they become due; and the value of the rupee on which they charge this interest is taken at two shillings and a penny. Has the Company ever troubled themselves to inquire whether their sales can bear the payment of that interest, and at that rate of exchange? Have they once considered the dilemma in which they are placed—the ruin of their credit in the East Indies, if they refuse the bills—the ruin of their credit and existence in England, if they accept them? Indeed, no trace of equitable government is found in their politics; not one trace of commercial principle in their mercantile dealing: and hence is the deepest and maturest wisdom of Parliament demanded, and the best resources of this kingdom must be strained to restore them; that is, to restore the countries destroyed by the misconduct of the Company, and to restore the Company itself, ruined by the consequences of their plans for destroying what they were bound to preserve.

"I required, if you remember, at my outset, a proof that these abuses were habitual. But, surely, this it is not necessary for me to consider as a separate head; because I trust I have made it evident beyond a doubt, in considering the abuses themselves, that they are regular, permanent, and systematical.

"I am now come to my last condition, without which, for one, I will never readily lend my hand to the destruction of any established government; which is, that in its present state, the government of the East India Company is absolutely incorrigible.

"Of this great truth I think there can be little doubt, after all that has appeared in this House. It is so very clear, that I must consider the leaving any power in their hands, and the determined resolution to continue and countenance every mode and every degree of peculation, oppression, and tyranny, to be one and the same thing. I look upon that body as incorrigible, from the fullest consideration, both of their uniform conduct, and their present real and virtual constitution.

"If they had not constantly been apprised of all the enormities committed in India under their authority; if this state of things had been as much a discovery to them as it was to many of us, we might flatter ourselves that the detection of the abuses would lead to their reformation. I will go further: if the Court of Directors had not uniformly condemned every act which this House or any of its committees had condemned; if the language in which they expressed their disapprobation against enormities and their authors had not been much more vehement and indignant than ever any used in this House, I should entertain some hopes. If they had not, on the other hand, as uniformly commended all their servants who had done their duty and obeyed their orders, as they had heavily censured those who rebelled; I might say, these people have been in error, and when they are sensible of it they will mend. But when I reflect on the uniformity of their support to the objects of their uniform censure; and the state of

insignificance and disgrace to which all of those have been reduced whom they approved; and that even utter ruin and premature death have been among the fruits of their favour; I must be convinced, that in this case, as in all others, hypocrisy is the only vice that never can be cured.

"Attend, I pray you, to the situation and prosperity of Benfield,* Hastings, and others of that sort. The last of these has been treated by the Company with an asperity of reprehension that has no parallel. They lament, 'that the power of disposing of their property for perpetuity should fall into such hands.' Yet for fourteen years, with little interruption, he has governed all their affairs, of every description, with an absolute sway. He has had himself the means of heaping up immense wealth;† and, during that whole period, the fortunes of hundreds have depended on his smiles and frowns. He himself tells you he is incumbered with two hundred and fifty young gentlemen, some of them of the best families in England, all of whom aim at returning with vast fortunes to Europe in the prime of life. He has, then, two hundred and fifty of your children as his hostages for your good behaviour; and loaded for years, as he has been, with the execrations of the natives, with the censures of the Court of Directors, and struck and blasted with the resolutions of this House, he still maintains the most despotic power ever known in India. He domineers with an overbearing sway in the assemblies of his pretended masters; and it is thought in a degree rash to venture to name his offences in this House, even as grounds of a legislative remedy.

"On the other hand, consider the fate of those who have met with the applauses of the directors. Colonel Monson,‡ one of the best of men, had his days shortened by the applauses, destitute of the support, of the Company. General Clavering,§ whose panegyric was made in every dispatch from England, whose hearse was bedewed with the tears, and hung round with the eulogies, of the Court of Directors, burst an honest and indignant heart at the treachery of those who ruined him by their praises. Uncommon

* Mr. Paul Benfield was originally a servant of the Company, in a low situation, with a salary of a few hundreds a-year. He then became a banker, and, on the occasion of the restoration of the Rajah of Tanjore by Lord Pigot, he laid claim to an enormous sum, viz., 405,000 pagodas, or £162,000, for money lent by him to the Nabob of Arcot, on the faith of his government being protected by the Company, and on the security of the assignment of the revenues of Tanjore; independently of which he also claimed 180,000 pagodas, or £72,000, for money advanced to individuals, and secured on the existing crops. Lord Pigot referred his claims to the council of Madras, when they were at first disallowed, but the vote of disallowance was never confirmed, and they were subsequently recognised. In 1785, the Board of Control ordered payment of the Nabob of Arcot's debts to be made without inquiry—as will appear in Mr. Burke's subsequent speech on the subject of the Nabob of Arcot's debts; the corrupt influence of Mr. Benfield was so great that, including himself, he procured the return of eight members to Parliament.

† See note, *ante*, p. 123.

‡ One of the members of the Council of Bengal.

§ See note, *ante*, p. 128. By his death, in 1776, Mr. Hastings could always command a majority in the council.

patience and temper supported Mr. Francis a while longer under the baneful influence of the commendation of the Court of Directors. His health, however, gave way at length; and, in utter despair, he returned to Europe. At his return, the doors of the India-house were shut to this man, who had been the object of their constant admiration. He has, indeed, escaped with life, but he has forfeited all expectation of credit, consequence, party, and following. He may well say, '*Me nemo ministro fur erit, atque ideo nulli comes exeo.*' This man, whose deep reach of thought, whose large legislative conceptions, and whose grand plans of policy, make the most shining part of our reports, from whence we have all learned our lessons, if we have learned any good ones; this man, from whose materials those gentlemen, who have least acknowledged it, have yet spoken as from a brief; this man, driven from his employment, discountenanced by the directors, has had no other reward, and no other distinction, but that inward 'sunshine of the soul' which a good conscience can always bestow upon itself. He has not yet had so much as a good word, but from a person too insignificant to make any other return, for the means with which he has been furnished for performing his share of a duty which is equally urgent on us all.

"Add to this, that from the highest in place to the lowest, every British subject, who, in obedience to the Company's orders, has been active in the discovery of peculations, has been ruined. They have been driven from India. When they made their appeal at home they were not heard; when they attempted to return they were stopped. No artifice of fraud, no violence of power, has been omitted, to destroy them in character as well as in fortune.

"Worse, far worse, has been the fate of the poor creatures, the natives of India, whom the hypocrisy of the Company has betrayed into complaints of oppression, and discovery of peculation. The first women in Bengal, the ranny of Rajeshahi, the ranny of Burdwan,* the ranny of Amboa, by their weak and thoughtless trust in the Company's honour and protection, are utterly ruined: the first of these women, a person of princely rank, and once of correspondent fortune, who paid above £200,000 a year quit-rent to the state, is, according to very credible information, so completely beggared as to stand in need of the relief of alms. Mahomed Reza Khan, the second Mussulman in Bengal, for having been distinguished by the ill-omened honour of

* This lady was the widow of the Rajah Tillook Chand, who, on his death, was succeeded by his son, a minor. The guardianship of the young rajah was withdrawn from his mother, and the zemindary placed under the management of administrators of English appointment. In 1774, the ranny complained of the corrupt administration of the dewan, or chief agent of the zemindary, and accused the English resident agent of supporting him therein, and of having received, by way of bribe, 320,975 rupees. Mr. Hastings was charged with having received 15,000 rupees, and his banian, or native secretary, 4,500; and, altogether, 936,497 rupees were represented as having been distributed amongst the Company's servants. On the complaint of the ranny, the majority of the council were for having the accounts investigated, but Mr. Hastings and Mr. Barwell opposed the inquiry, and refused to hold a council for the purpose.

the countenance and protection of the Court of Directors, was, without the pretence of any inquiry whatsoever into his conduct, stripped of all his employments, and reduced to the lowest condition.* His ancient rival for power, the Rajah Nuncomar, was, by an insult on everything which India holds respectable and sacred, hanged in the face of all his nation, by the judges you sent to protect that people; hanged for a pretended crime, upon an *ex post facto* British act of parliament, in the midst of his evidence against Mr. Hastings. The accuser they saw hanged. The culprit, without acquittal or inquiry, triumphs on the ground of that murder: a murder not of Nuncomar only, but of all living testimony, and even of evidence yet unborn. From that time not a complaint has been heard from the natives against their governors. All the grievances of India have found a complete remedy.

"Men will not look to acts of parliament, to regulations, to declarations, to votes, and resolutions. No, they are not such fools. They will ask, What is the road to power, credit, wealth, and honours? They will ask, What conduct ends in neglect, disgrace, poverty, exile, prison, and gibbet? These will teach them the course which they are to follow. It is your distribution of these that will give the character and tone of your government. All the rest is miserable grimace.

"When I accuse the Court of Directors of this habitual treachery, in the use of reward and punishment, I do not mean to include all the individuals in that court. There have been, Sir, very frequently, men of the greatest integrity and virtue amongst them; and the contrariety in the declarations and conduct of that court has arisen, I take it, from this: that the honest Directors have, by the force of matter of fact on the records, carried the reprobation of the evil measures of the servants in India. This could not be prevented, whilst these records stared them in the face; nor were the delinquents, either here or there, very solicitous about their reputation, as long as they were able to secure their power. The agreement of their partisans to censure them blunted, for a while, the edge of a severe proceeding. It obtained for them a character of impartiality, which enabled them to recommend, with some sort of grace, what will always carry a plausible appearance, those treacherous expedients, called moderate measures. Whilst these were under discussion, new matter of complaint came over, which seemed to antiquate the first. The same circle was here trod round once more; and thus through years they proceeded in a compromise of censure for punishment; until, by shame and despair, one after another, almost every man, who preferred his duty to the Company to the interest of their servants, has been driven from that court.

"This, Sir, has been their conduct; and it has been the result of the alteration which was insensibly made in their constitution. The change was made insensibly; but it is now strong and adult, and as public and declared, as it is fixed beyond all power of reformation. So that there is none who hears me, that is not as certain as I am, that the Company, in the sense in which it

* See note, *ante*, p. 134.

was formerly understood, has no existence. The question is not, what injury you may do to the proprietors of India stock; for there are no such men to be injured. If the active ruling part of the Company who form the general court, who fill the offices, and direct the measures, (the rest tell for nothing,) were persons who held their stock as a means of their subsistence, who in the part they took were only concerned, in the government of India, for the rise or fall of their dividend, it would be, indeed, a defective plan of policy. The interest of the people who are governed by them would not be their primary object; perhaps a very small part of their consideration at all. But then they might well be depended on, and perhaps more than persons in other respects preferable, for preventing the peculation of their servants to their own prejudice. Such a body would not easily have left their trade as a spoil to the avarice of those who received their wages. But now things are totally reversed. The stock is of no value, whether it be the qualification of a director or proprietor; and it is impossible that it should. A Director's qualification may be worth about £2,500,—and the interest, at eight per cent., is about £160 a-year. Of what value is that, whether it rise to ten, or fall to six, or to nothing, to him whose son, before he is in Bengal two months, and before he descends the steps of the council-chamber, sells the grant of a single contract for £40,000? Accordingly, the stock is bought up in qualifications. The vote is not to protect the stock, but the stock is bought to acquire the vote; and the end of the vote is to cover and support, against justice, some man of power who has made an obnoxious fortune in India, or to maintain in power those who are actually employing it in the acquisition of such a fortune; and to avail themselves, in return, of his patronage, that he may shower the spoils of the east, 'barbaric pearl and gold,' on them, their families, and dependants. So that all the relations of the Company are not only changed, but inverted. The servants in India are not appointed by the Directors, but the Directors are chosen by them. The trade is carried on with their capitals. To them the revenues of the country are mortgaged. The seat of the supreme power is in Calcutta. The house in Leadenhall-street is nothing more than a 'Change for their agents, factors, and deputies to meet in, to take care of their affairs, and support their interests; and this so avowedly, that we see the known agents of the delinquent servants marshalling and disciplining their forces, and the prime spokesmen in all their assemblies.

"Everything has followed in this order, and according to the natural train of events. I will close what I have to say on the incorrigible condition of the Company, by stating to you a few facts, that will leave no doubt of the obstinacy of that corporation, and of their strength too, in resisting the reformation of their servants. By these facts you will be enabled to discover the sole grounds upon which they are tenacious of their charter. It is now more than two years that, upon account of the gross abuses and ruinous situation of the Company's affairs, (which occasioned the cry of the whole world long before it was taken up here,) that we instituted two committees to inquire into the

mismanagements by which the Company's affairs had been brought to the brink of ruin.* These inquiries had been pursued with unremitting diligence and a great body of facts was collected and printed for general information. In the result of those inquiries, although the Committees consisted of very different descriptions, they were unanimous. They joined in censuring the conduct of the Indian administration, and enforcing the responsibility upon two men,† whom this House, in consequence of these reports, declared it to be the duty of the Directors to remove from their stations, and recall to Great Britain, '*because they had acted in a manner repugnant to the honour and policy of this nation, and thereby brought great calamities on India, and enormous expenses on the East India Company.*'

"Here was no attempt on the charter. Here was no question of their privileges. To vindicate their own honour, to support their own interests, to enforce obedience to their own orders; these were the sole objects of the monitory resolution of this House. But as soon as the general court could assemble, they assembled to demonstrate who they really were. Regardless of the proceedings of this House, they ordered the Directors not to carry into effect any resolution they might come to for the removal of Mr. Hastings and Mr. Hornby. The Directors, still retaining some shadow of respect to this House, instituted an inquiry themselves, which continued from June to October; and after an attentive perusal and full consideration of papers, resolved to take steps for removing the persons who had been the objects of our resolution; but not without a violent struggle against evidence. Seven Directors went so far as to enter a protest against the vote of their court. Upon this the general court takes the alarm; it re-assembles; it orders the Directors to rescind their resolution, that is, not to recall Mr. Hastings and Mr. Hornby, and to despise the resolution of the House of Commons. Without so much as the pretence of looking into a single paper, without the formality of instituting any committee of inquiry, they superseded all the labours of their own Directors, and of this House.

"It will naturally occur to ask, how it was possible that they should not attempt some sort of examination into facts, as a colour for their resistance to a public authority, proceeding so very deliberately; and exerted, apparently at least, in favour of their own? The answer, and the only answer which can be given, is, that they were afraid that their true relation should be mistaken. They were afraid that their patrons and masters in India should attribute their support of them to an opinion of their cause, and not to an attachment to their power. They were afraid it should be suspected, that they did not mean blindly to support them in the use they made of that power. They determined to show that they, at least, were set against reformation; that they were firmly resolved to bring the territories, the trade, and the stock of the Company, to ruin, rather than be wanting in fidelity to their nominal servants and real masters, in the ways they took to their private fortunes.

* See note, *ante*, p. 361. † Mr. Hastings, and Mr. Hornby, President of Bombay.

"Even since the beginning of this Session, the same act of audacity was repeated, with the same circumstances of contempt of all the decorum of inquiry on their part, and of all the proceedings of this House. They again made it a request to their favourite,* and your culprit, to keep his post; and thanked and applauded him, without calling for a paper which could afford light into the merit or demerit of the transaction, and without giving themselves a moment's time to consider, or even to understand the articles of the Mahratta peace. The fact is, that for a long time there was a struggle, a faint one indeed, between the Company and their servants. But it is a struggle no longer. For some time the superiority has been decided. The interests abroad are become the settled preponderating weight both in the Court of Proprietors and the Court of Directors. Even the attempt you have made to inquire into their practices and to reform abuses,† has raised and piqued them to a far more regular and steady support. The Company has made a common cause, and identified themselves, with the destroyers of India. They have taken on themselves all that mass of enormity; they are supporting what you have reprobated; those you condemn, they applaud; those you order home to answer for their conduct, they request to stay, and thereby encourage to proceed in their practices. Thus the servants of the East India Company triumph, and the representatives of the people of Great Britain are defeated.

"I therefore conclude, what you all conclude, that this body, being totally perverted from the purposes of its institution, is utterly incorrigible; and because they are incorrigible, both in conduct and constitution, power ought to be taken out of their hands; just on the same principles on which have been made all the just changes and revolutions of government that have taken place since the beginning of the world.

"I will now say a few words to the general principle of the plan which is set up against that of my right honourable friend. It is to re-commit the government of India to the Court of Directors. Those who would commit the reformation of India to the destroyers of it, are the enemies to that reformation. They would make a distinction between directors and proprietors, which, in the present state of things, does not, cannot, exist. But a right honourable gentleman says, he would keep the present government of India in the Court of Directors; and would, to curb them, provide salutary regulations. Wonderful! That is, he would appoint the old offenders to correct

* Warren Hastings.

† In an earlier part of the Session (1783) the attention of Parliament had been directed to the gross mismanagement of the Company's affairs both at home and abroad, and it became evident that ruin would ensue if the same corrupt policy were allowed to continue.

The condition of the Company was further made manifest by a Bill introduced by Sir Henry Fletcher, for Suspending the Payments of the Company due to the Exchequer, and enabling them to borrow the sum of £300,000, which was urged, as necessary to prevent their bankruptcy; their expenditure having far exceeded their income. In the critical state of the Company's affairs, this Bill was allowed to pass into an Act without much opposition. See, also, introduction to Mr. Burke's speech, *ante*, p. 482.

the old offences; and he would render the vicious and the foolish wise and virtuous, by salutary regulations. He would appoint the wolf as guardian of the sheep; but he has invented a curious muzzle, by which this protecting wolf shall not be able to open his jaws above an inch or two at the utmost. Thus his work is finished. But I tell the right honourable gentleman, that controlled depravity is not innocence; and that it is not the labour of delinquency in chains, that will correct abuses. Will these gentlemen of the direction animadvert on the partners of their own guilt? Never did a serious plan of amending of any old tyrannical establishment propose the authors and abettors of the abuses as the reformers of them. If the undone people of India see their old oppressors in confirmed power, even by the reformation, they will expect nothing but what they will certainly feel, a continuance, or rather an aggravation, of all their former sufferings. They look to the seat of power, and to the persons who fill it; and they despise those gentlemen's regulations as much as the gentlemen do who talk of them.

"But there is a cure for everything. Take away, say they, the Court of Proprietors, and the Court of Directors will do their duty. Yes; as they have done it hitherto. That the evils in India have solely arisen from the Court of Proprietors, is grossly false. In many of them, the Directors were heartily concurring; in most of them, they were encouraging, and sometimes commanding; in all, they were conniving.

"But who are to choose this well-regulated and reforming Court of Directors?—Why, the very proprietors, who are excluded from all management, for the abuse of their power. They will choose, undoubtedly, out of themselves, men like themselves; and those who are most forward in resisting your authority, those who are most engaged in faction or interest with the delinquents abroad, will be the objects of their selection. But gentlemen say, that when this choice is made, the Proprietors are not to interfere in the measures of the Directors, whilst those Directors are busy in the control of their common patrons and masters in India. No, indeed, I believe they will not desire to interfere. They will choose those who they know may be trusted, safely trusted, to act in strict conformity to their common principles, manners, measures, interests, and connexions. They will want neither monitor nor control. It is not easy to choose men to act in conformity to a public interest against their private: but a sure dependence may be had on those who are chosen to forward their private interest at the expense of the public. But if the Directors should slip and deviate into rectitude, the punishment is in the hands of the general court, and it will surely be remembered to them at their next election.

"If the government of India wants no reformation;—but gentlemen are amusing themselves with a theory, conceiving a more democratic or aristocratic mode of government for these dependencies, or if they are in a dispute only about patronage, the dispute is with me of so little concern, that I should not take the pains to utter an affirmative or negative to any proposition in it. If it be only for a theoretical amusement that they are to

propose a bill, the thing is at best frivolous and unnecessary. But if the Company's government is not only full of abuse, but is one of the most corrupt and destructive tyrannies that probably ever existed in the world (as I am sure it is), what a cruel mockery would it be in me, and in those who think like me, to propose this kind of remedy for this kind of evil!

"I now come to the third objection, That this bill will increase the influence of the Crown. An honourable gentleman has demanded of me, whether I was in earnest when I proposed to this House a plan for the reduction of that influence.* Indeed, Sir, I was much, very much, in earnest. My heart was deeply concerned in it; and I hope the public has not lost the effect of it. How far my judgment was right, for what concerned personal favour and consequence to myself, I shall not presume to determine; nor is its effect upon me of any moment. But as to this bill, whether it increases the influence of the Crown or not, is a question I should be ashamed to ask. If I am not able to correct a system of oppression and tyranny, that goes to the utter ruin of thirty millions of my fellow-creatures and fellow-subjects, but by some increase to the influence of the Crown, I am ready here to declare, that I, who have been active to reduce it, shall be at least as active and strenuous to restore it again. I am no lover of names; I contend for the substance of good and protecting government, let it come from what quarter it will.

"But I am not obliged to have recourse to this expedient. Much, very much the contrary. I am sure that the influence of the Crown will by no means aid a reformation of this kind; which can neither be originated nor supported, but by the uncorrupt public virtue of the representatives of the people of England. Let it once get into the ordinary course of administration, and to me all hopes of reformation are gone. I am far from knowing or believing, that this bill will increase the influence of the Crown. We all know that the Crown has ever had some influence in the Court of Directors, and that it has been extremely increased by the acts of 1773 and 1780.† The gentlemen who, as part of their reformation, propose 'a more active control on the part of the Crown,' which is to put the Directors under a Secretary of State, specially named for that purpose, must know, that their project will increase it further. But that old influence has had, and the new will have, incurable inconveniences, which cannot happen under the Parlia-

* See Mr. Burke's speech on "Economical Reform," and the introduction to that speech, *ante*, p. 579.

† By the Act of 1773, the constitution of the Company was materially altered; the qualification of the electors was raised from £500 to £1,000 stock, to have been possessed twelve months previous to the election; the Court of Directors were to be elected for four years; the Governor and Council of Bengal, who were to control the Governors of the Presidencies of Madras and Bombay, were to be appointed by Parliament; and four judges, who should compose a Supreme Court, were to be appointed by the Crown.

In 1780 the Company's Charter expired; and, in 1781, an Act was passed renewing it for a short time, on payment by the Company of a sum of £402,000.

mentary establishment proposed in this bill. An honourable gentleman,* not now in his place, but who is well acquainted with the India Company, and by no means a friend to this bill, has told you, that a ministerial influence has always been predominant in that body; and that to make the Directors pliant to their purposes, Ministers generally caused persons meanly qualified to be chosen Directors. According to his idea, to secure subserviency, they submitted the Company's affairs to the direction of incapacity. This was to ruin the Company in order to govern it. This was certainly influence in the very worst form in which it could appear. At best, it was clandestine and irresponsible. Whether this was done so much upon system as that gentleman supposes, I greatly doubt. But such, in effect, the operation of Government on that Court unquestionably was; and such, under a similar constitution, it will be for ever. Ministers must be wholly removed from the management of the affairs of India, or they will have an influence in its patronage. The thing is inevitable. Their scheme of a new secretary of state, 'with a more vigorous control,' is not much better than a repetition of the measure which we know by experience will not do. Since the year 1773 and the year 1780, the Company has been under the control of the Secretary of State's office, and we had then three Secretaries of State. If more than this is done, then they annihilate the direction which they pretend to support; and they augment the influence of the Crown, of whose growth they affect so great a horror. But, in truth, this scheme of reconciling a direction really and truly deliberative, with an office really and substantially controlling, is a sort of machinery that can be kept in order but a very short time. Either the Directors will dwindle into clerks, or the Secretary of State, as hitherto has been the course, will leave everything to them, often through design, often through neglect. If both should affect activity, collision, procrastination, delay, and, in the end, utter confusion must ensue.

"But, Sir, there is one kind of influence far greater than that of the nomination to office. This, gentlemen in opposition have totally overlooked, although it now exists in its full vigour; and it will do so, upon their scheme, in at least as much force as it does now. That influence this bill cuts up by the roots: I mean the *influence of protection.* I shall explain myself:—The office given to a young man going to India is of trifling consequence. But he that goes out an insignificant boy, in a few years returns a great Nabob. Mr. Hastings says he has two hundred and fifty of that kind of raw materials, who expect to be speedily manufactured into the merchantable quality I mention. One of these gentlemen, suppose, returns hither, loaded with odium and with riches. When he comes to England, he comes as to a prison, or as to a sanctuary; and either is ready for him, according to his demeanour. What is the influence in the grant of any place in India, to that which is acquired by the protection or compromise with such guilt, and

* Governor Johnstone.

with the command of such riches, under the dominion of the hopes and fears which power is able to hold out to every man in that condition? That man's whole fortune, half a million perhaps, becomes an instrument of influence, without a shilling of charge to the Civil List; and the influx of fortunes which stand in need of this protection is continual. It works both ways; it influences the delinquent, and it may corrupt the minister. Compare the influence acquired by appointing, for instance, even a Governor-general, and that obtained by protecting him. I shall push this no further: but I wish gentlemen to roll it a little in their own minds.

"The bill before you cuts off this source of influence. Its design and main scope is to regulate the administration of India upon the principles of a court of judicature; and to exclude, as far as human prudence can exclude, all possibility of a corrupt partiality, in appointing to office, or supporting in office, or covering from inquiry and punishment, any person who has abused or shall abuse his authority. At the Board, as appointed and regulated by this bill, reward and punishment cannot be shifted and reversed by a whisper. That commission becomes fatal to cabal, to intrigue, and to secret representation—those instruments of the ruin of India. He that cuts off the means of premature fortune, and the power of protecting it when acquired, strikes a deadly blow at the great fund, the bank, the capital stock of Indian influence, which cannot be vested anywhere, or in any hands, without most dangerous consequences to the public.

"The third and contradictory objection is, that this bill does not increase the influence of the Crown. On the contrary, that the just power of the Crown will be lessened, and transferred to the use of a party, by giving the patronage of India to a commission nominated by Parliament, and independent of the Crown. The contradiction is glaring; and it has been too well exposed to make it necessary for me to insist upon it. But passing the contradiction, and taking it without any relation, of all objections that is the most extraordinary. Do not gentlemen know that the Crown has not, at present, the grant of a single office under the Company, civil or military, at home or abroad? So far as the Crown is concerned, it is certainly rather a gainer; for the vacant offices in the new commission are to be filled up by the King.

"It is argued as a part of the bill, derogatory to the prerogatives of the Crown, that the commissioners named in the bill are to continue for a short term of years, too short in my opinion; and because, during that time, they are not at the mercy of every predominant faction of the Court. Does not this objection lie against the present Directors; none of whom are named by the Crown, and a proportion of whom hold for this very term of four years? Did it not lie against the Governor-general and Council named in the act of 1773—who were invested, by name, as the present commissioners are to be appointed in the body of the Act of Parliament, who were to hold their places for a term of years, and were not removeable at the discretion of the Crown? Did it not lie against the re-appointment, in the year 1780, upon the very same terms?

Yet, at none of these times, whatever other objections the scheme might be liable to, was it supposed to be a derogation to the just prerogative of the Crown, that a commission created by Act of Parliament should have its members named by the authority which called it into existence? This is not the disposal by Parliament of any office derived from the authority of the Crown, or now disposable by that authority. It is so far from being anything new, violent, or alarming, that I do not recollect, in any Parliamentary commission, down to the commissioners of the land-tax, that it has ever been otherwise.

"The objection of the tenure for four years is an objection to all places that are not held during pleasure; but in that objection I pronounce the gentlemen, from my knowledge of their complexion and of their principles, to be perfectly in earnest. The party (say these gentlemen) of the ministers who proposes this scheme will be rendered powerful by it; for he will name his party friends to the commission. This objection against party is a party objection; and in this, too, these gentlemen are perfectly serious. They see that if, by any intrigue, they should succeed to office, they will lose the clandestine patronage, the true instrument of clandestine influence, enjoyed in the name of subservient Directors, and of wealthy trembling Indian delinquents. But as often as they are beaten off this ground, they return to it again. The minister will name his friends, and persons of his own party. Whom should he name? Should he name his adversaries? Should he name those whom he cannot trust? Should he name those to execute his plans who are the declared enemies to the principles of his reform? His character is here at stake. If he proposes for his own ends (but he never will propose) such names as, from their want of rank, fortune, character, ability, or knowledge, are likely to betray or to fall short of their trust, he is in an independent House of Commons; in a House of Commons which has, by its own virtue, destroyed the instruments of Parliamentary subservience. This House of Commons would not endure the sound of such names. He would perish by the means which he is supposed to pursue for the security of his power. The first pledge he must give of his sincerity in this great reform, will be in the confidence which ought to be reposed in those names.

"For my part, Sir, in this business I put all indirect considerations wholly out of my mind. My sole question, on each clause of the bill, amounts to this: Is the measure proposed required by the necessities of India? I cannot consent totally to lose sight of the real wants of the people who are the objects of it, and to hunt after every matter of party squabble that may be started on the several provisions. On the question of the duration of the commission I am clear and decided. Can I, can any one who has taken the smallest trouble to be informed concerning the affairs of India, amuse himself with so strange an imagination, as that the habitual despotism and oppression, that the monopolies, the peculations, the universal destruction of all the legal authority of this kingdom, which have been for twenty years maturing to their present enormity, combined with the distance of the scene,

the boldness and artifice of delinquents, their combination, their excessive wealth, and the faction they have made in England, can be fully corrected in a shorter term than four years? None has hazarded such an assertion—none, who has a regard for his reputation, will hazard it.

"Sir, the gentlemen, whoever they are, who shall be appointed to this commission, have an undertaking of magnitude on their hands, and their stability must not only be, but it must be thought, real; and who is it will believe, that anything short of an establishment made, supported, and fixed in its duration, with all the authority of Parliament, can be thought secure of a reasonable stability? The plan of my honourable friend is the reverse of that of reforming by the authors of the abuse. The best we could expect from them is, that they should not continue their ancient pernicious activity. To those we could think of nothing but applying *control;* as we are sure that even a regard to their reputation (if any such thing exists in them) would oblige them to cover, to conceal, to suppress, and consequently to prevent all cure of the grievances of India. For what can be discovered which is not to their disgrace? Every attempt to correct an abuse would be a satire on their former administration. Every man they should pretend to call to an account, would be found their instrument or their accomplice. They can never see a beneficial regulation, but with a view to defeat it. The shorter the tenure of such persons, the better would be the chance of some amendment.

"But the system of the bill is different. It calls in persons in nowise concerned with any act censured by Parliament; persons generated with and for the reform, of which they are themselves the most essential part. To these the chief regulations in the bill are helps, not fetters; they are authorities to support, not regulations to restrain them. From these we look for much more than innocence. From these we expect zeal, firmness, and unremitted activity. Their duty, their character, binds them to proceedings of vigour; and they ought to have a tenure in their office which precludes all fear, whilst they are acting up to the purposes of their trust; a tenure without which none will undertake plans that require a series and system of acts. When they know that they cannot be whispered out of their duty; that their public conduct cannot be censured without a public discussion; that the schemes which they have begun will not be committed to those who will have an interest and credit in defeating and disgracing them; then we may entertain hopes. The tenure is for four years, or during their good behaviour. That good behaviour is as long as they are true to the principles of the bill; and the judgment is in either House of Parliament. This is the tenure of your judges; and the valuable principle of the bill is to make a judicial administration for India. It is to give confidence in the execution of a duty which requires as much perseverance and fortitude as can fall to the lot of any that is born of woman.

"As to the gain by party, from the right honourable gentleman's bill, let

it be shown that this supposed party advantage is pernicious to its object, and the objection is of weight; but until this is done, and this has not been attempted, I shall consider the sole objection, from its tendency to promote the interest of a party, as altogether contemptible. The kingdom is divided into parties, and it ever has been so divided, and it ever will be so divided; and if no system for relieving the subjects of this kingdom from oppression, and snatching its affairs from ruin, can be adopted until it is demonstrated that no party can derive an advantage from it, no good can ever be done in this country. If party is to derive an advantage from the reform of India (which is more than I know, or believe), it ought to be that party which alone, in this kingdom, has its reputation, nay, its very being, pledged to the protection and preservation of that part of the empire. Great fear is expressed, that the commissioners named in this bill will show some regard to a minister out of place. To men made like the objectors, this must appear criminal. Let it, however, be remembered by others, that if the commissioners should be his friends, they cannot be his slaves. But dependants are not in a condition to adhere to friends, nor to principles, nor to any uniform line of conduct. They may begin censors, and be obliged to end accomplices. They may be even put under the direction of those whom they were appointed to punish.

"The fourth and last objection is, that the bill will hurt public credit. I do not know whether this requires an answer. But if it does, look to your foundations. The sinking fund is the pillar of credit in this country,* and let it not be forgot, that the distresses, owing to the mismanagement of the East India Company, have already taken a million from that fund by the non-payment of duties. The bills drawn upon the Company, which are about four millions, cannot be accepted without the consent of the Treasury. The Treasury, acting under a Parliamentary trust and authority, pledges the public for these millions. If they pledge the public, the public must have a security in its hands for the management of this interest, or the national credit is gone. For, otherwise, it is not only the East India Company, which is a great interest, that is undone, but, clinging to the security of all your funds, it drags down the rest, and the whole fabric perishes in one ruin. If this bill does not provide a direction of integrity and of ability competent to that trust, the objection is fatal. If it does, public credit must depend on the support of the bill.

"It has been said, if you violate this charter, what security has the charter of the Bank, in which public credit is so deeply concerned, and even the charter of London, in which the rights of so many subjects are involved? I answer, In the like case they have no security at all. No; no security at all. If the Bank should, by every species of mismanagement, fall into a

* A sinking fund for the redemption of the National Debt had been originally adopted by Sir Robert Walpole, in 1716; but it had long since been diverted from its proper object, and applied to other purposes. Mr. Pitt's celebrated plan of a sinking fund was subsequently introduced in 1786.

state similar to that of the East India Company; if it should be oppressed with demands it could not answer, engagements which it could not perform, and with bills for which it could not procure payment; no charter should protect the mismanagement from correction, and such public grievances from redress. If the city of London had the means and will of destroying an empire, and of cruelly oppressing and tyrannising over millions of men as good as themselves, the charter of the city of London should prove no sanction to such tyranny and such oppression. Charters are kept, when their purposes are maintained: they are violated, when the privilege is supported against its end and its object.

"Now, Sir, I have finished all I proposed to say, as my reasons for giving my vote to this bill. If I am wrong, it is not for want of pains to know what is right. This pledge, at least, of my rectitude I have given to my country.

"And now, having done my duty to the bill, let me say a word to the author. I should leave him to his own noble sentiments, if the unworthy and illiberal language with which he has been treated, beyond all example of parliamentary liberty, did not make a few words necessary; not so much in justice to him, as to my own feelings. I must say, then, that it will be a distinction honourable to the age, that the rescue of the greatest number of the human race that ever were so grievously oppressed, from the greatest tyranny that was ever exercised, has fallen to the lot of abilities and dispositions equal to the task; that it has fallen to one who has the enlargement to comprehend, the spirit to undertake, and the eloquence to support, so great a measure of hazardous benevolence. His spirit is not owing to his ignorance of the state of men and things; he well knows what snares are spread about his path, from personal animosity, from court intrigues, and possibly from popular delusion. But he has put to hazard his ease, his security, his interest, his power, even his darling popularity, for the benefit of a people whom he has never seen. This is the road that all heroes have trod before him. He is traduced and abused for his supposed motives. He will remember, that obloquy is a necessary ingredient in the composition of all true glory: he will remember, that it was not only in the Roman customs, but it is in the nature and constitution of things, that calumny and abuse are essential parts of triumph. These thoughts will support a mind, which only exists for honour, under the burthen of temporary reproach. He is doing, indeed, a great good; such as rarely falls to the lot, and almost as rarely coincides with the desires, of any man. Let him use his time. Let him give the whole length of the reins to his benevolence. He is now on a great eminence, where the eyes of mankind are turned to him. He may live long, he may do much. But here is the summit. He never can exceed what he does this day.

"He has faults; but they are faults that though they may in a small degree tarnish the lustre, and sometimes impede the march of his abilities, have nothing in them to extinguish the fire of great virtues. In those faults, there is no mixture of deceit, of hypocrisy, of pride, of ferocity, of complexional despotism, or want of feeling for the distresses of mankind.

His are faults which might exist in a descendant of Henry IV. of France, as they did exist in that father of his country. Henry IV. wished that he might live to see a fowl in the pot of every peasant in his kingdom: that sentiment of homely benevolence was worth all the splendid sayings that are recorded of kings. But he wished, perhaps, for more than could be obtained, and the goodness of the man exceeded the power of the king. But this gentleman, a subject, may this day say this at least, with truth, that he secures the rice in his pot to every man in India. A poet of antiquity thought it one of the first distinctions to a prince whom he meant to celebrate, that, through a long succession of generations, he had been the progenitor of an able and virtuous citizen,* who, by force of the arts of peace, had corrected governments of oppression, and suppressed wars of rapine :—

> "Indole proh quanta juvenis, quantumque daturus
> Ausoniæ populis, ventura in sæcula civem.
> Ille super Gangem, super exauditus et Indos,
> Implebit terras voce ; et furialia bella
> Fulmine compescet linguæ."

This was what was said of the predecessor of the only person to whose eloquence it does not wrong that of the mover of this bill to be compared. But the Ganges and the Indus are the patrimony of the fame of my honourable friend, and not of Cicero. I confess, I anticipate with joy the reward of those whose whole consequence, power, and authority, exist only for the benefit of mankind; and I carry my mind to all the people, and all the names and descriptions, that, relieved by this bill, will bless the labours of this Parliament, and the confidence which the best House of Commons has given to him who the best deserves it. The little cavils of party will not be heard where freedom and happiness will be felt. There is not a tongue, a nation, or religion in India, which will not bless the presiding care and manly beneficence of this House, and of him who proposes to you this great work. Your names will never be separated before the throne of the Divine Goodness, in whatever language, or with whatever rites, pardon is asked for sin, and reward for those who imitate the Godhead in his universal bounty to his creatures. These honours you deserve, and they will surely be paid, when all the jargon of influence, and party, and patronage, are swept into oblivion.

"I have spoken what I think, and what I feel, of the mover of this bill. An honourable friend of mine, speaking of his merits, was charged with having made a studied panegyric. I don't know what his was: mine, I am sure, is a studied panegyric; the fruit of much meditation; the result of the observation of near twenty years. For my own part, I am happy that I have lived to see this day; I feel myself overpaid for the labours of eighteen

* Cicero: who, according to some accounts, regularly traced his descent from Tullus Attius, the King of the Volsci, to whom Coriolanus fled when exiled from his country.

years, when, at this late period, I am able to take my share, by one humble vote, in destroying a tyranny that exists to the disgrace of this nation, and the destruction of so large a part of the human species."

The motion for the House going into committee was carried by 217 against 103. On the 8th December, the bill was read a third time and passed, and on the next day carried up to the Lords, who threw it out on the 17th December, by a majority of 19—the numbers being, against the bill, 95; and for it, 76.

Speech in support of Mr. Fox's motion on the subject of the "Debts of the Nabob of Arcot," 28th February, 1785.

This speech was corrected for the press and published by Mr. Burke himself, with the following preface:—

"Advertisement.

"That the least informed reader of this speech may be enabled to enter fully into the spirit of the transaction on occasion of which it was delivered, it may be proper to acquaint him, that among the princes dependent on this nation in the southern parts of India, the most considerable at present is commonly known by the title of the Nabob of Arcot.

"This prince* owed the establishment of his government, against the claims of his elder brother, as well as those of other competitors, to the arms and influence of the British East India Company. Being thus established in a considerable part of the dominions he now possesses, he began, about the year 1765, to form, at the instigation (as he asserts) of the servants of the East India Company, a variety of designs for the further extension of his territories. Some years after, he carried his views to certain objects of interior arrangement, of a very pernicious nature. None of these designs could be compassed without the aid of the Company's arms; nor could those arms be employed consistently with an obedience to the Company's orders. He was, therefore, advised to form a more secret, but an equally powerful interest among the servants of that Company, and among others, both at home and abroad. By engaging them in his interests, the use of the Company's power might be obtained without their ostensible authority; the power might even be employed in defiance of the authority; if the case should require, as in truth it often did require, a proceeding of that degree of boldness.

"The Company had put him into possession of several great cities and magnificent castles. The good order of his affairs, his sense of personal dignity, his ideas of oriental splendour, and the habits of an Asiatic life

* Mahomed Ali.

(to which, being a native of India, and a Mahometan, he had from his infancy been inured), would naturally have led him to fix the seat of his government within his own dominions. Instead of this, he totally sequestered himself from his country, and, abandoning all appearance of state, he took up his residence in an ordinary house, which he purchased in the suburbs of the Company's factory at Madras. In that place he has lived, without removing one day from thence, for several years past. He has there continued a constant cabal with the Company's servants, from the highest to the lowest; creating, out of the ruins of the country, brilliant fortunes for those who will, and entirely destroying those who will not, be subservient to his purposes.

"An opinion prevailed, strongly confirmed by several passages in his own letters, as well as by a combination of circumstances forming a body of evidence which cannot be resisted, that very great sums have been by him distributed, through a long course of years, to some of the Company's servants. Besides these presumed payments in ready money (of which, from the nature of the thing, the direct proof is very difficult), debts have, at several periods, been acknowledged to those gentlemen, to an immense amount; that is, to some millions of sterling money. There is strong reason to suspect, that the body of these debts is wholly fictitious, and was never created by money *bonâ fide* lent. But even on a supposition that this vast sum was really advanced, it was impossible that the very reality of such an astonishing transaction should not cause some degree of alarm, and incite to some sort of inquiry.

"It was not at all seemly, at a moment when the Company itself was so distressed, as to require a suspension, by Act of Parliament, of the payment of bills drawn on them from India*—and also a direct tax upon every house in England, in order to facilitate the vent of their goods, and to avoid instant insolvency—at that very moment that their servants should appear in so flourishing a condition, as, besides ten millions of other demands on their masters, to be entitled to claim a debt of three or four millions more from the territorial revenue of one of their dependent princes.

"The ostensible pecuniary transactions of the Nabob of Arcot, with very private persons, are so enormous, that they evidently set aside every pretence of policy, which might induce a prudent government in some instances to wink at ordinary loose practice in ill-managed departments. No caution could be too great in handling this matter; no scrutiny too exact. It was evidently the interest, and as evidently at least in the power, of the creditors, by admitting secret participation in this dark and undefined concern, to spread corruption to the greatest and the most alarming extent.

"These facts relative to the debts were so notorious, the opinion of their being a principal source of the disorders of the British government in India was so undisputed and universal, that there was no party, no description of

* See introduction to speech, *ante*, p. 482.

men in Parliament, who did not think themselves bound, if not in honour and conscience, at least in common decency, to institute a vigorous inquiry into the very bottom of the business, before they admitted any part of that vast and suspicious charge to be laid upon an exhausted country. Every plan concurred in directing such an inquiry; in order that whatever was discovered to be corrupt, fraudulent, or oppressive, should lead to a due animadversion on the offenders; and if anything fair and equitable in its origin should be found (nobody suspected that much, comparatively speaking, would be so found), it might be provided for; in due subordination, however, to the ease of the subject, and the service of the state.

"These were the alleged grounds for an inquiry, settled in all the bills brought into Parliament relative to India; and there were, I think, no less than four of them. By the bill, commonly called Mr. Pitt's bill, the inquiry was specially, and by express words, committed to the Court of Directors, without any reserve for the interference of any other person or persons whatsoever. It was ordered that they should make the inquiry into the origin and justice of these debts, as far as the materials in their possession enabled them to proceed; and where they found those materials deficient, they should order the presidency of Fort St. George [Madras] to complete the inquiry.

"The Court of Directors applied themselves to the execution of the trust reposed in them. They first examined into the amount of the debt, which they computed, at compound interest, to be £2,945,600 sterling. Whether their mode of computation, either of the original sums, or the amount on compound interest, was exact; that is, whether they took the interest too high, or the several capitals too low, is not material. On whatever principle any of the calculations were made up, none of them found the debt to differ from the recital of the act, which asserted, that the sums claimed were 'very large.' The last head of these debts the Directors compute at £2,465,680 sterling. Of the existence of this debt the Directors heard nothing until 1776; and they say, that, 'although they had repeatedly written to the Nabob of Arcot, and to their servants, respecting the debt, yet they had never been able to trace the origin thereof, or to obtain any satisfactory information on the subject.'

"The Court of Directors, after stating the circumstances under which the debts appeared to them to have been contracted, add as follows:—'For these reasons we should have thought it our duty to inquire very minutely into those debts, even if the Act of Parliament had been silent on the subject, before we concurred in any measure for their payment. But with the positive injunctions of the act before us, to examine into their nature and origin, we are indispensably bound to direct such an inquiry to be instituted.' They then order the President and Council of Madras to enter into a full examination, &c., &c.

"The Directors having drawn up their order to the Presidency on these principles, communicated the draft of the general letter in which those

orders were contained, to the Board of his Majesty's Ministers, and other servants lately constituted by Mr. Pitt's East India act.* These ministers, who had just carried through Parliament the bill ordering a specific inquiry, immediately drew up another letter, on a principle directly opposite to that which was prescribed by the Act of Parliament, and followed by the Directors. In these second orders, all idea of an inquiry into the justice and origin of the pretended debts, particularly of the last, the greatest, and the most obnoxious to suspicion, is abandoned. They are all admitted and established without any investigation whatsoever, except some private conference with the agents of the claimants is to pass for an investigation; and a fund for their discharge is assigned and set apart out of the revenues of the Carnatic.—To this arrangement in favour of their servants, servants suspected of corruption, and convicted of disobedience, the Directors of the East India Company were ordered to set their hands, asserting it to arise from their own conviction and opinion, in flat contradiction to their recorded sentiments, their strong remonstrance, and their declared sense of their duty, as well under their general trust and their oath as Directors, as under the express injunctions of an act of Parliament.

"By another section of the same act, the same Court of Directors were ordered to take into consideration, and to decide on, the indeterminate rights of the Rajah of Tanjore and the Nabob of Arcot;† and in this, as in the former case, no power of appeal, revision, or alteration, was reserved to any other. It was a jurisdiction in a cause between party and party, given to the Court of Directors specifically. It was known that the territories of the former of these princes had been twice invaded and pillaged, and the prince deposed and imprisoned, by the Company's servants, influenced by the intrigues of the latter, and for the purpose of paying his pretended debts. The Company had, in the year 1775, ordered a restoration of the Rajah to his government, under certain conditions. The Rajah complained that his territories had not been completely restored to him; and that no part of his goods, money, revenues, or records, unjustly taken and withheld from him, were ever returned. The Nabob, on the other hand, never ceased to claim the country itself, and carried on a continued train of negotiation, that it should again be given up to him, in violation of the Company's public faith.

"The Directors, in obedience to this part of the act, ordered an inquiry, and came to a determination to restore certain of his territories to the Rajah. The Ministers, proceeding as in the former case, without hearing any party, rescinded the decision of the Directors, refused the restitution of the territory, and without regard to the condition of the country of Tanjore, which had been within a few years four times plundered, (twice by the Nabob of Arcot, and

* The Board of Control, to whom all despatches by the Court of Directors to the different Presidencies were obliged to be submitted for inspection and approval; and the Directors were bound to obey the Board in all matters of government and revenue, whether civil or military.

† See note, *ante*, p. 684.

twice by enemies brought upon it solely by the politics of the same Nabob, the declared enemy of that people,) and without discounting a shilling for their sufferings, they accumulate an arrear of about £400,000 of pretended tribute to this enemy; and then they order the Directors to put their hands to a new adjudication, directly contrary to a judgment in a judicial character and trust, solemnly given by them, and entered on their records.

"These proceedings naturally called for some inquiry. On the 28th of February, 1785, Mr. Fox made the following motion in the House of Commons, after moving that the clauses of the act should be read:—'That the proper officer do lay before this House copies and extracts of all letters and orders of the Court of Directors of the united East India Company, in pursuance of the injunctions contained in the 37th and 38th clauses of the said act;' and the question being put, it passed in the negative by a very great majority. The last speech in the debate was the following; which is given to the public, not as being more worthy of its attention than others, (some of which were of consummate ability,) but as entering more into the detail of the subject."

"The times we live in, Mr. Speaker, have been distinguished by extraordinary events. Habituated, however, as we are, to uncommon combinations of men and of affairs, I believe nobody recollects anything more surprising than the spectacle of this day. The right honourable gentleman,* whose conduct is now in question, formerly stood forth in this House, the prosecutor of the worthy baronet who spoke after him.† He charged him with several grievous acts of malversation in office; with abuses of a public trust of a great and heinous nature. In less than two years we see the situation of the parties reversed; and a singular revolution puts the worthy baronet in a fair way of returning the prosecution in a recriminatory bill of pains and penalties, grounded on a breach of public trust, relative to the government of the very same part of India. If he should undertake a bill of that kind, he will find no difficulty in conducting it with a degree of skill and vigour fully equal to all that have been exerted against him.

"But the change of relation between these two gentlemen is not so striking as the total difference of their deportment under the same unhappy circumstances. Whatever the merits of the worthy baronet's defence might have been, he did not shrink from the charge. He met it with manliness of spirit, and decency of behaviour. What would have been thought of him, if he had held the present language of his old accuser? When articles were exhibited against him by that right honourable gentleman, he did not think proper to tell the House that we ought to institute no inquiry, to inspect no paper, to examine no witness. He did not tell us (what at that time he might have

* Mr. Dundas, treasurer of the navy, and one of the members of the Board of Control.

† Sir Thomas Rumbold, Governor of Fort St. George, Madras.

told us with some show of wisdom) that our concerns in India were matters of delicacy; that to divulge anything relative to them would be mischievous to the state. He did not tell us, that those who would inquire into his proceedings were disposed to dismember the empire. He had not the presumption to say, that, for his part, having obtained, in his Indian presidency, the ultimate object of his ambition, his honour was concerned in executing with integrity the trust which had been legally committed to his charge: that others, not having been so fortunate, could not be so disinterested; and, therefore, their accusations could spring from no other source than faction, and envy to his fortune.

"Had he been frontless enough to hold such vain vapouring language in the face of a grave, a detailed, a specified, matter of accusation, whilst he violently resisted everything which could bring the merits of his cause to the test; had he been wild enough to anticipate the absurdities of this day; that is, had he inferred, as his late accuser had thought proper to do, that he could not have been guilty of malversation in office, for this sole and curious reason, that he had been in office; had he argued the impossibility of his abusing his power on this sole principle, that he had power to abuse, he would have left but one impression on the mind of every man who heard him and who believed him in his senses—that in the utmost extent he was guilty of the charge.

"But, Sir, leaving these two gentlemen to alternate, as criminal and accuser, upon what principles they think expedient; it is for us to consider, whether the Chancellor of the Exchequer,* and the Treasurer of the Navy, acting as a board of control, are justified by law or policy, in suspending the legal arrangements made by the Court of Directors, in order to transfer the public revenues to the private emolument of certain servants of the East India Company, without the inquiry into the origin and justice of their claims, prescribed by an act of Parliament?

"It is not contended, that the act of Parliament did not expressly ordain an inquiry. It is not asserted that this inquiry was not, with equal precision of terms, specially committed under particular regulations to the Court of Directors. I conceive, therefore, the Board of Control had no right whatsoever to intermeddle in that business. There is nothing certain in the principles of jurisprudence, if this be not undeniably true, that when a special authority is given to any persons by name, to do some particular act, that no others, by virtue of general powers, can obtain a legal title to intrude themselves into that trust, and to exercise those special functions in their place. I therefore consider the intermeddling of Ministers in this affair as a downright usurpation. But if the strained construction, by which they have forced themselves into a suspicious office, (which every man, delicate with regard to character, would rather have sought constructions to avoid,) were perfectly sound and perfectly legal, of this I am certain, that they cannot be

* The Honourable William Pitt, also a member of the Board of Control.

justified in the inquiry which had been prescribed to the Court of Directors. If the Board of Control did lawfully possess the right of executing the special trust given to that Court, they must take it as they found it, subject to the very same regulations which bound the Court of Directors. It will be allowed that the Court of Directors had no authority to dispense with either the substance or the mode of inquiry prescribed by the act of Parliament. If they had not, where, in the act, did the Board of Control acquire that capacity? Indeed, it was impossible they would acquire it. What must we think of the fabric and texture of an act of Parliament, which should find it necessary to prescribe a strict inquisition; that should descend into minute regulations for the conduct of that inquisition; that should commit this trust to a particular description of men, and in the very same breath, should enable another body, at their own pleasure, to supersede all the provisions the Legislature had made, and to defeat the whole purpose, end, and object of the law? This cannot be supposed even of an act of Parliament conceived by the Ministers themselves, and brought forth during the delirium of the last session.

"My right honourable friend* has told you, in the speech which introduced his motion, that fortunately this question is not a great deal involved in the labyrinths of Indian detail. Certainly not. But if it were, I beg leave to assure you, that there is nothing in the Indian detail which is more difficult than in the detail of any other business. I admit, because I have some experience of the fact, that for the interior regulation of India, a minute knowledge of India is requisite. But on any specific matter of delinquency in its government, you are as capable of judging, as if the same thing were done at your door. Fraud, injustice, oppression, peculation, engendered in India, are crimes of the same blood, family, and cast, with those that are born and bred in England. To go no further than the case before us: you are just as competent to judge whether the sum of £4,000,000 sterling ought, or ought not, to be passed from the public treasury into a private pocket, without any title except the claim of the parties, when the issue of fact is laid in Madras, as when it is laid in Westminster.

"Terms of art, indeed, are different in different places; but they are generally understood in none. The technical style of an Indian treasury is not one jot more remote than the jargon of our own exchequer from the train of our ordinary ideas, or the idiom of our common language. The difference, therefore, in the two cases is not in the comparative difficulty or facility of the two subjects, but in our attention to the one, and our total neglect of the other. Had this attention and neglect been regulated by the value of the several objects, there would be nothing to complain of. But the reverse of that supposition is true. The scene of the Indian abuse is distant indeed; but we must not infer, that the value of our interest in it is decreased in proportion as it recedes from our view. In our politics, as in our common conduct, we

* Mr. Fox.

shall be worse than infants, if we do not put our senses under the tuition of our judgment, and effectually cure ourselves of that optical illusion which makes a briar at our nose of greater magnitude than an oak at five hundred yards distance.

"I think I can trace all the calamities of this country to the single source of our not having had steadily before our eyes a general, comprehensive, well-connected, and well-proportioned view of the whole of our dominions, and a just sense of their true bearings and relations. After all its reductions, the British empire is still vast and various. After all the reductions of the House of Commons (stripped as we are of our brightest ornaments, and of our most important privileges), enough are yet left to furnish us, if we please, with means of showing to the world, that we deserve the superintendence of as large an empire as this kingdom ever held, and the continuance of as ample privileges as the House of Commons, in the plenitude of its power, had been habituated to assert. But if we make ourselves too little for the sphere of our duty; if, on the contrary, we do not stretch and expand our minds to the compass of their object, be well assured, that everything about us will dwindle by degrees until at length our concerns are shrunk to the dimensions of our minds. It is not a predilection to mean, sordid, home-bred cares, that will avert the consequences of a false estimation of our interest, or prevent the shameful dilapidation into which a great empire must fall, by mean reparations upon mighty ruins.

"I confess I feel a degree of disgust, almost leading to despair, at the manner in which we are acting in the great exigencies of our country. There is now a bill in this House, appointing a rigid inquisition into the minutest detail of our offices at home.* The collection of sixteen millions annually; a collection on which the public greatness, safety, and credit have their reliance; the whole order of criminal jurisprudence, which holds together society itself, have at no time obliged us to call forth such powers; no, nor anything like them. There is not a principle of the law and constitution of this country that is not subverted to favour the execution of that project. And for what is all this apparatus of bustle and terror? Is it because anything substantial is expected from it? No. The stir and bustle itself is the end proposed. The eye-servants of a short-sighted master will employ themselves, not on what is most essential to his affairs, but on what is nearest to his ken. Great difficulties have given a just value to economy; and our minister of the day must be an economist, whatever it may cost us. But where is he to exert his talents? At home, to be sure; for where else can he obtain a profitable credit for their exertion? It is nothing to him, whether the object on which he works under our eye be promising or not. If he does not obtain any public benefit, he may make regulations without end. Those are sure to pay in present expectation, whilst the effect is at a

* The bill introduced by Mr. Pitt for regulating and reforming the public offices. Commissioners had been appointed to inquire into the fees, perquisites, and emoluments received in the various departments.

distance, and may be the concern of other times, and other men. On these principles he chooses to suppose (for he does not pretend more than to suppose) a naked possibility, that he shall draw some resource out of crumbs dropped from the trenchers of penury; that something shall be laid in store from the short allowance of revenue officers, over-loaded with duty, and famished for want of bread; by a reduction from officers who are at this very hour ready to batter the treasury with what breaks through stone walls, for an increase of their appointments. From the marrowless bones of these skeleton-establishments, by the use of every sort of cutting, and of every sort of fretting tool, he flatters himself that he may chip and rasp an empirical alimentary powder, to diet into some similitude of health and substance the languishing chimeras of fraudulent reformation.

"Whilst he is thus employed according to his policy and to his taste, he has not leisure to inquire into those abuses in India that are drawing off money by millions from the treasures of this country, which are exhausting the vital juices from members of the state, where the public inanition is far more sorely felt than in the local exchequer of England. Not content with winking at these abuses, whilst he attempts to squeeze the laborious ill-paid drudges of English revenue, he lavishes in one act of corrupt prodigality, upon those who never served the public in any honest occupation at all, an annual income equal to two-thirds of the whole collection of the revenues of this kingdom.

"Actuated by the same principle of choice, he has now on the anvil another scheme, full of difficulty and desperate hazard, which totally alters the commercial relation of two kingdoms;* and what end soever it shall have, may bequeath a legacy of heart-burning and discontent to one of the countries, perhaps to both, to be perpetuated to the latest posterity. This project is also undertaken on the hope of profit. It is provided, that out of some (I know not what) remains of the Irish hereditary revenue, a fund at some time, and of some sort, should be applied to the protection of the Irish trade. Here we are commanded again to task our faith, and to persuade ourselves, that out of the surplus of deficiency, out of the savings of habitual and systematic prodigality, the minister of wonders will provide support for this nation, sinking under the mountainous load of £230,000,000 of debt. But whilst we look with pain at his desperate and laborious trifling; whilst we are apprehensive that he will break his back in stooping to pick up chaff and straws, he recovers himself at an elastic bound, and with a broad-cast swing of his arm, he squanders over his Indian field a

* Mr. Burke alluded to Mr. Pitt's bill for adjusting the commercial intercourse between England and Ireland, conferring on the latter country all the privileges of trade enjoyed by England, and in return requiring from her a contribution towards the maintenance of the colonies, and the protection of the general commerce of the empire; such contribution to be regulated by the amount of gain derived from the new system; and the surplus of the revenue, above its present produce, to be appropriated towards the support of the Royal Navy.

sum far greater than the clear produce of the whole hereditary revenue of the kingdom of Ireland.*

"Strange as this scheme of conduct in Ministry is, and inconsistent with all just policy, it is still true to itself, and faithful to its own perverted order. Those who are bountiful to crimes, will be rigid to merit, and penurious to service. Their penury is even held out as a blind and cover to their prodigality. The economy of injustice is to furnish resources for the fund of corruption. Then they pay off their protection to great crimes and great criminals, by being inexorable to the paltry frailties of little men; and these modern flagellants are sure, with a rigid fidelity, to whip their own enormities on the vicarious back of every small offender.

"It is to draw your attention to economy of quite another order; it is to animadvert on offences of a far different description, that my honourable friend has brought before you the motion of this day. It is to perpetuate the abuses which are subverting the fabric of your empire, that the motion is opposed. It is, therefore, with reason (and if he has power to carry himself through, I commend his prudence) that the right honourable gentleman makes his stand at the very outset; and boldly refuses all parliamentary information. Let him admit but one step towards inquiry, and he is undone. You must be ignorant, or he cannot be safe. But before his curtain is let down, and the shades of eternal night shall veil our eastern dominions from our view, permit me, Sir, to avail myself of the means which were furnished in anxious and inquisitive times, to demonstrate, out of this single act of the present minister, what advantages you are to derive from permitting the greatest concern of this nation to be separated from the cognizance, and exempted even out of the competence, of Parliament. The greatest body of your revenue, your most numerous armies, your most important commerce, the richest sources of your public credit, (contrary to every idea of the known settled policy of England,) are on the point of being converted into a mystery of state. You are going to have one-half of the globe hid even from the common liberal curiosity of an English gentleman. Here a grand revolution commences. Mark the period, and mark the circumstances. In most of the capital changes that are recorded in the principles and system of any government, a public benefit of some kind or other has been pretended. The revolution commenced in something plausible; in something which carried the appearance at least of punishment of delinquency, or correction of abuse. But here, in the very moment of the conversion of a department of British government into an Indian mystery, and in the very act in which the change commences, a corrupt, private interest is set up in direct opposition to the necessities of the nation. A diversion is made of millions of the public money from the public treasury to a private purse. It is not into secret negotiations for war, peace, or alliance, that the

* The whole of the net Irish hereditary revenue is, on a medium of the last seven years, about £330,000 yearly. The revenues of all denominations fall short more than £150,000 yearly of the charges. On the present produce, if Mr. Pitt's scheme was to take place, he might gain from seven to ten thousand pounds a-year. (1785.)

House of Commons is forbidden to inquire. It is a matter of account; it is a pecuniary transaction; it is the demand of a suspected steward upon ruined tenants and an embarrassed master, that the Commons of Great Britain are commanded not to inspect. The whole tenor of the right honourable gentleman's argument is consonant to the nature of his policy. The system of concealment is fostered by a system of falsehood. False facts, false colours, false names of persons and things, are its whole support.

"Sir, I mean to follow the right honourable gentleman over that field of deception, clearing what he has purposely obscured, and fairly stating what it was necessary for him to misrepresent. For this purpose, it is necessary you should know, with some degree of distinctness, a little of the locality, the nature, the circumstances, the magnitude of the pretended debts on which this marvellous donation is founded, as well as of the persons from whom and by whom it is claimed.

"Madras, with its dependencies, is the second (but with a long interval, the second) member of the British empire in the East, The trade of that city, and of the adjacent territory, was, not very long ago, among the most flourishing in Asia. But since the establishment of the British power, it has wasted away under an uniform gradual decline; insomuch that in the year 1779 not one merchant of eminence was to be found in the whole country. During this period of decay, about 600,000 sterling pounds a year have been drawn off by English gentlemen on their private account, by the way of China alone. If we add four hundred thousand, as probably remitted through other channels, and in other mediums, that is, in jewels, gold, and silver directly brought to Europe, and in bills upon the British and foreign companies, you will scarcely think the matter overrated. If we fix the commencement of this extraction of money from the Carnatic at a period no earlier than the year 1760, and close it in the year 1780, it probably will not amount to a great deal less than twenty millions of money.

"During the deep silent flow of this steady stream of wealth, which set from India into Europe, it generally passed on with no adequate observation; but happening at some periods to meet rifts of rocks that checked its course, it grew more noisy and attracted more notice. The pecuniary discussions caused by an accumulation of part of the fortunes of their servants in a debt from the Nabob of Arcot, was the first thing which very particularly called for, and long engaged the attention of the Court of Directors. This debt amounted to £880,000 sterling, and was claimed, for the greater part, by English gentlemen residing at Madras. This grand capital, settled at length by order at 10 per cent., afforded an annuity of £88,000.

"Whilst the Directors were digesting their astonishment at this information, a memorial was presented to them from three gentlemen, informing them that their friends had lent likewise, to merchants of Canton in China, a sum of not more than one million sterling. In this memorial they called upon the Company for their assistance and interposition with the Chinese government for the recovery of the debt. This sum, lent

to Chinese merchants, was at 24 per cent., which would yield, if paid, an annuity of £240,000.*

"Perplexed as the Directors were with these demands, you may conceive, Sir, that they did not find themselves very much disembarrassed, by being made acquainted that they must again exert their influence for a new reserve of the happy parsimony of their servants, collected into a second debt from the Nabob of Arcot, amounting to £2,400,000, settled at an interest of 12 per cent. This is known by the name of the Consolidation of 1777, as the former of the Nabob's debts was by the title of the Consolidation of 1767. To this was added, in separate parcel, a little reserve called the Cavalry debt, of £160,000 at the same interest. The whole of these four capitals, amounting to £4,440,000, produced, at their several rates, annuities amounting to £623,000 a year; a good deal more than one-third of the clear land-tax of England, at four shillings in the pound; a good deal more than double the whole annual dividend of the East India Company, the nominal masters, to the proprietors in these funds. Of this interest, £383,200 a year stood chargeable on the public revenues of the Carnatic.

"Sir, at this moment, it will not be necessary to consider the various operations which the capital and interest of this debt have successively undergone. I shall speak to these operations when I come particularly to answer the right honourable gentleman on each of the heads, as he has thought proper to divide them. But this was the exact view in which these debts first appeared to the Court of Directors, and to the world. It varied afterwards. But it never appeared in any other than a most questionable shape. When this gigantic phantom of debt first appeared before a young minister, it naturally would have justified some degree of doubt and apprehension. Such a prodigy would have filled any common man with superstitious fears. He would exorcise that shapeless, nameless form, and by everything sacred would have adjured it to tell by what means a small number of slight individuals, of no consequence or situation, possessed of no lucrative offices, without the command of armies, or the known administration of revenues, without profession of any kind, without any sort of trade sufficient to employ a pedlar, could have, in a few years (as to some, even in a few months) amassed treasures equal to the revenues of a respectable kingdom? Was it not enough to put these gentlemen, in the noviciate of their administration, on their guard, and to call upon them for a strict inquiry, (if not to justify them in a reprobation of those demands without any inquiry at all,) that when all England, Scotland, and Ireland had for years been witness to the immense sums laid out by the servants of the Company in stocks of all denominations, in the purchase of lands, in the buying and building of houes, in the securing quiet seats in Parliament, or in the tumultuous riot of contested elections, in wandering throughout the whole range of those variegated modes of inventive prodigality, which

* A witness examined before the committee of secresy says, that 18 per cent. was the usual interest; but he had heard that more had been given. The above is the account which Mr. Burke received.

sometimes have excited our wonder, sometimes roused our indignation; that after all India was four millions still in debt to them? India in debt to them! For what? Every debt for which an equivalent of some kind or other is not given, is on the face of it a fraud. What is the equivalent they have given? What equivalent had they to give? What are the articles of commerce, or the branches of manufacture, which those gentlemen have carried hence to enrich India? What are the sciences they beamed out, to enlighten it? What are the arts they introduced, to cheer and to adorn it? What are the religious, what the moral institutions they have taught among that people as a guide to life, or as a consolation when life is to be no more, that there is an eternal debt, a debt 'still paying still to owe,' which must be bound on the present generation in India, and entailed on their mortgaged posterity for ever? A debt of millions, in favour of a set of men, whose names, with few exceptions, are either buried in the obscurity of their origin and talents, or dragged into light by the enormity of their crimes!

"In my opinion, the courage of the Minister was the most wonderful part of the transaction, especially as he must have read, or rather the right honourable gentleman says he has read for him, whole volumes upon the subject. The volumes, by the way, are not by one-tenth part so numerous as the right honourable gentleman has thought proper to pretend, in order to frighten you from inquiry; but in these volumes, such as they are, the Minister must have found a full authority for a suspicion (at the very least) of everything relative to the great fortunes made at Madras. What is that authority? Why, no other than the standing authority for all the claims which the Ministry has thought fit to provide for—the grand debtor—the Nabob of Arcot himself. Hear that prince, in the letter written to the Court of Directors, at the precise period, whilst the main body of these debts were contracting. In his letter he states himself to be, what undoubtedly he is, a most competent witness to this point. After speaking of the war with Hyder Ali in 1768 and 1769, and of other measures which he censures, (whether right or wrong, it signifies nothing,) and into which he says he had been led by the Company's servants; he proceeds in this manner:—'If all these things were against the real interests of the Company, they are ten thousand times more against mine, and against the prosperity of my country, and the happiness of my people; for your interests and mine are the same. What were they owing to, then? To the private views of a few individuals, who have enriched themselves at the expense of your influence, and of my country; for your servants have no trade in this country; neither do you pay them high wages, yet in a few years they return to England with many lacs of pagodas. How can you or I account for such immense fortunes acquired in so short a time, without any visible means of getting them?'

"When he asked this question, which involves its answer, it is extraordinary that curiosity did not prompt the Chancellor of the Exchequer to that inquiry which might come in vain recommended to him by his own act of Parliament. Does not the Nabob of Arcot tell us in so many words that

there was no fair way of making the enormous sums sent by the Company's servants to England? and do you imagine that there was or could be more honesty and good faith, in the demands for what remained behind in India? Of what nature were the transactions with himself? If you follow the train of his information you must see, that if these great sums were at all lent, it was not property, but spoil, that was lent; if not lent, the transaction was not a contract, but a fraud. Either way, if light enough could not be furnished to authorise a full condemnation of these demands, they ought to have been left to the parties who best knew and understood each other's proceedings. It was not necessary that the authority of Government should interpose in favour of claims, whose very foundation was a defiance of that authority, and whose object and end was its entire subversion.

"It may be said that this letter was written by the Nabob of Arcot in a moody humour, under the influence of some chagrin. Certainly it was; but it is in such humours that truth comes out. And when he tells you from his own knowledge, what every one must presume, from the extreme probability of the thing, whether he told it or not, one such testimony is worth a thousand that contradict that probability, when the parties have a better understanding with each other, and when they have a point to carry, that may unite them in a common deceit.

"If this body of private claims of debt, real or devised, were a question, as it is falsely pretended, between the Nabob of Arcot as debtor, and Paul Benfield and his associates as creditors, I am sure I should give myself but little trouble about it. If the hoards of oppression were the funds for satisfying the claims of bribery and peculation, who would wish to interfere between such litigants? If the demands were confined to what might be drawn from the treasures which the Company's records uniformly assert that the Nabob is in possession of; or, if he had mines of gold or silver, or diamonds (as we know that he has none), these gentlemen might break open his hoards, or dig in his mines, without any disturbance from me. But the gentlemen on the other side of the House know as well as I do, and they dare not contradict me, that the Nabob of Arcot and his creditors are not adversaries, but collusive parties, and that the whole transaction is under a false colour and false names. The litigation is not, nor ever has been, between their rapacity and his hoarded riches. No; it is between him and them combining and confederating on one side, and the public revenues, and the miserable inhabitants of a ruined country, on the other. These are the real plaintiffs and the real defendants in the suit. Refusing a shilling from his hoards for the satisfaction of any demand, the Nabob of Arcot is always ready, nay, he earnestly, and with eagerness and passion, contends for delivering up to these pretended creditors his territory and his subjects. It is, therefore, not from treasuries and mines, but from the food of your unpaid armies, from the blood withheld from the veins, and whipped out of the backs of the most miserable of men, that we are to pamper extortion, usury, and peculation, under the false names of debtors and creditors of state.

"The great patron of these creditors (to whose honour they ought to erect statues), the right honourable gentleman (Mr. Dundas), in stating the merits which recommended them to his favour, has ranked them under three grand divisions. The first, the creditors of 1767; then the creditors of the cavalry loan; and, lastly, the creditors of the loan in 1777. Let us examine them, one by one, as they pass in review before us.

"The first of these loans, that of 1767, he insists, has an indisputable claim upon the public justice. The creditors, he affirms, lent their money publicly; they advanced it with the express knowledge and approbation of the Company; and it was contracted at the moderate interest of ten per cent. In this loan the demand is, according to him, not only just, but meritorious in a very high degree; and one would be inclined to believe he thought so, because he has put it last in the provision he has made for these claims.

"I readily admit this debt to stand the fairest of the whole; for whatever may be my suspicions concerning a part of it, I can convict it of nothing worse than the most enormous usury. But I can convict upon the spot the right honourable gentleman, of the most daring misrepresentation in every one fact, without any exception, that he has alleged in defence of this loan, and of his own conduct with regard to it. I will show you that this debt was never contracted with the knowledge of the Company; that it had not their approbation; that they received the first intelligence of it with the utmost possible surprise, indignation, and alarm.

"So far from being previously apprised of the transaction from its origin, it was two years before the Court of Directors obtained any official intelligence of it. 'The dealings of the servants with the Nabob were concealed from the first, until they were found out,' says Mr. Sayer, the Company's counsel, 'by the report of the country.' The Presidency, however, at last thought proper to send an official account. On this, the Directors tell them, 'To your great reproach it has been concealed from us. We cannot but suspect this debt to have had its weight in your proposed aggrandisement of Mahomed Ali (the Nabob of Arcot); but whether it has or has not, certain it is, you are guilty of a high breach of duty in concealing it from us.'

"These expressions, concerning the grounds of the transaction, its effect, and its clandestine nature, are in the letters bearing date March 17, 1769. After receiving a more full account on the 23rd March, 1770, they state, that 'Messrs. John Pybus, John Call, and James Bourchier, as trustees for themselves and others of the Nabob's private creditors, had proved a deed of assignment upon the Nabob and his son, of fifteen districts of the Nabob's country, the revenues of which yielded, in time of peace, eight lacs of pagodas (£320,000 sterling) annually; and likewise an assignment of the yearly tribute paid the Nabob from the Rajah of Tanjore, amounting to four lacs of rupees (£40,000).' The territorial revenue, at that time possessed by these gentlemen, without the knowledge or consent of their masters, amounted to £360,000 sterling annually. They were making rapid strides to the entire possession of the country, when the Directors, whom the right

honourable gentleman states as having authorised these proceedings, were kept in such profound ignorance of this royal acquisition of territorial revenue by their servants, that in the same letter they say, 'This assignment was obtained by three of the members of your board, in January, 1767, yet we do not find the least trace of it upon your consultations, until August, 1768, nor do any of your letters to us afford any information relative to such transactions, till the 1st of November, 1768. By your last letters of the 8th of May, 1769, you bring the whole proceedings to light in one view.'

"As to the previous knowledge of the Company, and its sanction to the debts, you see that this assertion of that knowledge is utterly unfounded. But did the Directors approve of it, and ratify the transaction when it was known? The very reverse. On the same 3rd of March, the Directors declare, 'Upon an impartial examination of the whole conduct of our late Governor and Council of Fort George (Madras), and on the fullest consideration, that the said Governor and Council have, in notorious violation of the trust reposed in them, manifestly preferred the interest of private individuals to that of the Company, in permitting the assignment of the revenues of certain valuable districts, to a very large amount, from the Nabob to individuals,' —and then, highly aggravating their crimes, they add, 'We order and direct that you do examine, in the most impartial manner, all the above-mentioned transactions; and that you punish by suspension, degradation, dismission, or otherwise, as to you shall seem meet, all and every such servant or servants of the Company, who may by you be found guilty of any of the above offences.' 'We had,' say the Directors, 'the mortification to find that the servants of the Company, who had been raised, supported, and owed their present opulence to the advantages gained in such service, have, in this instance, most unfaithfully betrayed their trust, abandoned the Company's interest, and prostituted its influence to accomplish the purposes of individuals, whilst the interest of the Company is almost wholly neglected, and payment to us rendered extremely precarious.' Here, then, is the rock of approbation of the Court of Directors, on which the right honourable gentleman says this debt was founded. Any member, Mr. Speaker, who should come into the House, on my reading this sentence of condemnation of the Court of Directors against their unfaithful servants, might well imagine that he had heard a harsh, severe, unqualified invective against the present Ministerial Board of Control. So exactly do the proceedings of the patrons of this abuse tally with those of the actors in it, that the expressions used in the condemnation of the one, may serve for the reprobation of the other, without the change of a word.

"To read you all the expressions of wrath and indignation fulminated in this dispatch against the meritorious creditors of the right honourable gentleman, who, according to him, have been so fully approved of by the Company, would be to read the whole.

"The right honourable gentleman, with an address peculiar to himself, every now and then slides in the Presidency of Madras, as synonymous to

the Company. That the Presidency did approve the debt is certain. But the right honourable gentleman, as prudent in suppressing as skilful in bringing forward his matter, has not chosen to tell you that the Presidency were the very persons guilty of contracting this loan; creditors themselves, and agents and trustees for all the other creditors. For this the Court of Directors accuse them of breach of trust; and for this the right honourable gentleman considers them as perfectly good authority for those claims. It is pleasant to hear a gentleman of the law quote the approbation of creditors as an authority for their own debt.

"How they came to contract the debt to themselves, how they came to act as agents for those whom they ought to have controlled, is for your inquiry. The policy of this debt was announced to the Court of Directors by the very persons concerned in creating it. 'Till very lately,' say the Presidency, 'the Nabob placed his dependence on the Company. Now, he has been taught by ill-advisers that an interest out of doors may stand him in good stead. He has been made to believe that his private creditors have power and interest to overrule the Court of Directors.'* The Nabob was not misinformed. The private creditors instantly qualified a vast number of votes; and, having made themselves masters of the Court of Proprietors, as well as extending a powerful cabal in other places as important, they so completely overturned the authority of the Court of Directors at home and abroad, that this poor baffled Government was soon obliged to lower its tone. It was glad to be admitted into partnership with its own servants. The Court of Directors, establishing the debt which it had reprobated as a breach of trust, and which was planned for the subversion of their authority, settled its payments on a par with those of the public; and, even so, were not able to obtain peace or even equality in their demands. All the consequences lay in a regular and irresistible train. By employing their influence for the recovery of this debt, their orders, issued in the same breath, against creating new debts, only animated the strong desires of their servants to this prohibited, prolific sport, and it soon produced a swarm of sons and daughters, not in the least degenerated from the virtue of their parents.

"From that moment the authority of the Court of Directors expired in the Carnatic, and everywhere else. 'Every man,' says the Presidency, 'who opposes the Government and its measures, finds an immediate countenance from the Nabob; even our discarded officers, however unworthy, are received into the Nabob's service.'† It was, indeed, a matter of no wonderful sagacity

* For the threats of the creditors, and total subversion of the authority of the Company in favour of the Nabob's power, and the increase thereby of his evil dispositions, and the great derangement of all public concerns, see Select Committee, Fort St. George's, letters, 21st Nov. 1769, and Jan. 31, 1770, Sept. 11, 1772. And Governor Bourchier's letters to the Nabob of Arcot, 21st Nov. 1769, and Dec. 9, 1769.

† "He (the Nabob) is, in a great degree, the cause of our present inability; by diverting the revenues of the Carnatic through private channels."—"Even this pesheush (the Tanjore tribute), circumstanced as he and we are, he has assigned over to others,

to determine whether the Court of Directors, with their miserable salaries to their servants, of four or five hundred pounds a year, or the distributor of millions, was most likely to be obeyed. It was an invention beyond the imagination of all the speculatists of our speculating age, to see a Government quietly settled in one and the same town, composed of two distinct members; one to pay scantily for obedience, and the other to bribe high for rebellion and revolt.

"The next thing which recommends this particular debt to the right honourable gentleman is, it seems, the moderate interest of ten per cent. It would be lost labour to observe on this assertion. The Nabob, in a long apologetic letter,* for the transaction between him and the body of the creditors, states the fact, as I shall state it to you. In the accumulation of this debt, the first interest paid was from thirty to thirty-six per cent., it was then brought down to twenty-five per cent., at length it was reduced to twenty, and there it found its rest. During the whole process, as often as any of these monstrous interests fell into an arrear, (into which they were continually falling), the arrear formed into a new capital,† was added to the old, and the same interest of twenty per cent. accrued upon both. The Company, having got some scent of the enormous usury which prevailed at Madras, thought it necessary to interfere, and to order all interests to be lowered to ten per cent. This order, which contained no exception, though it by no means pointed particularly to this class of debts, came like a thunder-clap on the Nabob. He considered his political credit as ruined; but to find a remedy to this unexpected evil, he again added to the old principal twenty per cent., interest accruing for the last year. Thus a new fund was formed; and it was on that accumulation of various principals, and interests heaped upon interests, not on the sum originally lent, as the right honourable gentleman would make you believe, that ten per cent. was settled on the whole.

"When you consider the enormity of the interest at which these debts were contracted, and the several interests added to the principal, I believe you will not think me so sceptical, if I should doubt whether for this debt of £880,000 the Nabob ever saw £100,000 in real money. The right honourable gentleman suspecting, with all his absolute dominion over fact, that he never will be able to defend even this venerable patriarchal job, though sanctified by its numerous issue, and hoary with prescriptive years, has re-

who now set themselves in opposition to the Company." Consultations, Oct. 11, 1769, on the 12th communicated to the Nabob.

* Nabob's letters to Governor Palk. Papers published by the Directors in 1775; and papers printed by the same authority, 1781.

† See papers printed by order of a General Court in 1780, p. 222 and p. 224, as also Nabob's letter to Governor Dupré, 19th July, 1771, "I have taken up loans by which I have suffered a loss of upwards of a crore of pagodas (four millions sterling) by interest on a heavy interest."—Letter, 15th Jan. 1772, "Notwithstanding I have taken much trouble, and have made many payments to my creditors, yet the load of my debt, which became so great, by interest and compound interest, is not cleared."

course to recrimination, the last resource of guilt. He says that this loan of 1767 was provided for in Mr. Fox's India bill; and, judging of others by his own nature and principles, he more than insinuates that this provision was made, not from any sense of merit in the claim, but from partiality to General Smith, a proprietor, and an agent for that debt. If partiality could have had any weight against justice and policy with the then ministers and their friends, General Smith had titles to it. But the right honourable gentleman knows as well as I do that General Smith was very far from looking on himself as partially treated in the arrangements of that time; indeed, what man dared to hope for private partiality in that sacred plan for relief to nations?

"It is not necessary that the right honourable gentleman should sarcastically call that time to our recollection. Well do I remember every circumstance of that memorable period. God forbid I should forget it. O illustrious disgrace! O victorious defeat! May your memorial be fresh and new to the latest generations! May the day of that generous conflict be stamped in characters never to be cancelled or worn out from the records of time! Let no man hear of us who shall not hear that, in a struggle against the intrigues of courts, and the perfidious levity of the multitude, we fell in the cause of honour, in the cause of our country, in the cause of human nature itself! But if fortune should be as powerful over fame as she has been prevalent over virtue, at least our conscience is beyond her jurisdiction. My poor share in the support of that great measure no man shall ravish from me. It shall be safely lodged in the sanctuary of my heart; never, never to be torn from thence, but with those holds that grapple it to life. I say I well remember that bill, and every one of its honest and its wise provisions. It is not true that this debt was ever protected or enforced, or any revenue whatsoever set apart for it. It was left in that bill just where it stood; to be paid or not to be paid out of the Nabob's private treasures, according to his own discretion. The Company had actually given it their sanction; though always relying for its validity on the sole security of the faith of him, [the Nabob of Arcot,] who, without their knowledge or consent, entered into the original obligation. It had no other sanction; it ought to have had no other. So far was Mr. Fox's bill from providing funds for it, as this Ministry have wickedly done for this, and for ten times worse transactions, out of the public estate, that an express clause immediately preceded, positively forbidding any British subject from receiving assignments upon any part of the territorial revenue, on any pretence whatsoever.*

* "And be it further enacted by the authority aforesaid, that the Nabob of Arcot, the Rajah of Tanjore, or any other native protected prince in India, shall not assign, mortgage, or pledge any territory or land whatsoever, or the produce or revenue thereof, to any British subject whatsoever; neither shall it be lawful to and for any British subject whatsoever, to take or receive any such assignment, mortgage, or pledge; and the same are hereby declared to be null and void; and all payments or deliveries of produce or revenue, under any such assignment, shall and may be recovered back by such native prince paying or delivering the same, from the person or persons receiving the same, or his or their representatives."

"You recollect, Mr. Speaker, that the Chancellor of the Exchequer strongly professed to retain every part of Mr. Fox's bill, which was intended to prevent abuse; but in his India bill, which (let me do justice) is as able and skilful a performance for its own purposes, as ever issued from the wit of man, premeditating this iniquity—*hoc ipsum ut strueret Trojamque aperiret Achivis*, expunged this essential clause, broke down the fence which was raised to cover the public property against the rapacity of his partisans, and thus levelling every obstruction, he made a firm, broad, highway for sin and death, for usury and oppression, to renew their ravages throughout the devoted revenues of the Carnatic.

"The tenor, the policy, and the consequences of this debt of 1767, are, in the eyes of the Ministry, so excellent, that its merits are irresistible, and it takes the lead to give credit and countenance to all the rest. Along with this chosen body of heavy-armed infantry, and to support it, in the line, the right honourable gentleman has stationed his corps of black cavalry. If there be any advantage between this debt and that of 1769, according to him the cavalry debt has it. It is not a subject of defence; it is a theme of panegyric. Listen to the right honourable gentleman, and you will find it was contracted to save the country; to prevent mutiny in armies; to introduce economy in revenues: and for all these honourable purposes, it originated at the express desire, and by the representative authority, of the Company itself.

"First, let me say a word to the authority. This debt was contracted, not by the authority of the Company, not by its representatives, (as the right honourable gentleman has the unparalleled confidence to assert,) but in the ever-memorable period of 1777, by the usurped power of those who rebelliously, in conjunction with the Nabob of Arcot, had overturned the lawful government of Madras.* For that rebellion, this House unanimously directed

* After the restoration of the Rajah of Tanjore by Lord Pigot, Governor of Madras, in spite of the corrupt opposition of the Council (*ante*, note, p. 684), fresh disputes arose as to the officer who should be sent to Tanjore, it being necessary that some British officer should be resident there, in consequence of the intrigues of the Nabob of Arcot. The majority of the Council, being opposed to Lord Pigot's choice, insisted on their right to act independently of the Governor; whereupon Lord Pigot, to thwart their intentions, preferred charges against two of their number for their improper appointment; which had the effect, according to the Standing Orders of the Company, of excluding the parties accused from voting on any question relating to the subject of the charges, and gave the Governor a majority. At the succeeding Council the excluded members sent a formal protest, denouncing the proceedings of the previous Council, and declaring themselves to be the only legitimate government; and this protest was distributed among all the civil and military officers throughout the Presidency. Lord Pigot immediately caused a vote to be passed by the Council, by which all the members who had signed the protest were absolutely suspended from office. But his opponents were not thus to be crushed; they determined, on their part, to proceed to extremities, and, having met and declared themselves vested with all the powers of Government, they resolved to seize the person of the Governor; and Colonel Stuart, whom they had originally chosen as the agent to be sent to Tanjore, was appointed to

a public prosecution. The delinquents, after they had subverted government, in order to make to themselves a party to support them in their power, are universally known to have dealt jobs about to the right and to the left, and to any who were willing to receive them. This usurpation, which the right honourable gentleman well knows was brought about by and for the great mass of these pretended debts, is the authority which is set up by him to represent the Company; to represent that Company which, from the first moment of their hearing of this corrupt and fraudulent transaction, to this hour, have uniformly disowned and disavowed it.

"So much for the authority. As to the facts, partly true, and partly colourable, as they stand recorded, they are in substance these :—The Nabob of Arcot, as soon as he had thrown off the superiority of this country by means of these creditors, kept up a great army, which he never paid. Of course, his soldiers were generally in a state of mutiny. The usurping Council say, that they laboured hard with their master the Nabob, to persuade him to reduce these mutinous and useless troops. He consented; but, as usual, pleaded inability to pay them their arrears. Here was a difficulty. The Nabob had no money; the Company had no money; every public supply was empty. But there was one resource which no season has ever yet dried up in that climate. The soucars were at hand; that is, private English money-jobbers offered their assistance. Messrs. Taylor, Majendie, and Call, proposed to advance the small sum of £160,000, to pay off the Nabob's black cavalry, provided the Company's authority was given for their loan. This was the great point of policy always aimed at, and pursued through a hundred devices by the servants at Madras. The Presidency, who themselves had no authority for the functions they presumed to exercise, very readily gave the sanction of the Company to those servants who knew that the Company, whose sanction was demanded, had positively prohibited all such transactions.

"However, so far as the reality of the dealing goes, all is hitherto fair and plausible; and here the right honourable gentleman concludes, with

execute their design; which required great caution, as any violence offered to the Governor's person within the precincts of the fortress, was punishable with death under the mutiny laws. Colonel Stuart, therefore, resorted to the following stratagem:—On the 24th August, 1776, the Colonel dined with the Governor, and persuaded him, on account of the oppressive heat, to accompany him to sleep at a villa outside the walls; and as soon as ever they had passed the precincts of the fortress, his Lordship was seized and placed in strict confinement, while his enemies in the Council immediately assumed the reins of government. This outrage was highly censured in England, and Lord Pigot and the Council were ordered home, that their conduct might be strictly inquired into. The former, however, died before the orders reached India; his death being much hastened by the anxiety and the imprisonment he had suffered. Several of the members of the Council subsequently returned, and, by the direction of the House of Commons, were prosecuted by the Attorney-General. Their trial took place before Lord Mansfield, in December, 1779, when they were found guilty, and sentenced to pay a fine of £1,000 each.

commendable prudence, his account of the business. But here it is I shall beg leave to commence my supplement: for the gentleman's discreet modesty has led him to cut the thread of the story somewhat abruptly. One of the most essential parties is quite forgotten. Why should the episode of the poor Nabob be omitted? When that prince chooses it, nobody can tell his story better. Excuse me, if I apply again to my book, and give it you from the first hand; from the Nabob himself:—

"'Mr. Stratton* became acquainted with this, and got Mr. Taylor, and others, to lend me four lacs of pagodas towards discharging the arrears of pay of my troops. Upon this, I wrote a letter of thanks to Mr. Stratton; and upon the faith of this money being paid immediately, I ordered many of my troops to be discharged by a certain day, and lessened the number of my servants. Mr. Taylor, &c., some time after acquainted me, that they had no ready money, but they would grant teeps payable in four months. This astonished me; for I did not know what might happen, when the sepoys were dismissed from my service. I begged of Mr. Taylor, and the others, to pay this sum to the officers of my regiments at the time they mentioned; and desired the officers, at the same time, to pacify and persuade the men belonging to them, that their pay would be given to them at the end of four months; and that till those arrears were discharged, their pay should be continued to them. Two years are nearly expired since that time, but Mr. Taylor has not yet entirely discharged the arrears of those troops, and I am obliged to continue their pay from that time till this. I hoped to have been able, by this expedient, to have lessened the number of my troops, and discharge the arrears due to them, considering the trifle of interest to Mr. Taylor, and the others, as no great matter; but instead of this, I am oppressed with the burthen of pay due to those troops; and the interest, which is going on to Mr. Taylor from the day the teeps were granted to him.' What I have read to you is an extract of a letter from the Nabob of the Carnatic to Governor Rumbold, dated the 22d, and received the 24th of March, 1779.

"Suppose his highness not to be well broken in to things of this kind, it must indeed surprise so known and established a bond-vendor, as the Nabob of Arcot, one who keeps himself the largest bond-warehouse in the world, to find that he was now to receive in kind; not to take money for his obligations, but to give his bond in exchange for the bond of Messrs. Taylor, Majendie, and Call, and to pay besides, a good smart interest, legally 12 per cent. (in reality perhaps twenty or twenty-four per cent.) for this exchange of paper. But his troops were not to be so paid, or so disbanded. They wanted bread, and could not live by cutting and shuffling of bonds. The Nabob still kept the troops in service, and was obliged to continue, as you have seen, the whole expense, to exonerate himself from which he became indebted to the soucars.

* One of the Members of the Council.

" Had it stood here, the transaction would have been of the most audacious strain of fraud and usury, perhaps, ever before discovered, whatever might have been practised and concealed. But the same authority (I mean the Nabob's) brings before you something if possible more striking. He states, that for this their paper, he immediately handed over to these gentlemen something very different from paper; that is, the receipt of a territorial revenue, of which it seems they continued as long in possession as the Nabob himself continued in possession of anything. Their payments, therefore, not being to commence before the end of four months, and not being completed in two years, it must be presumed (unless they proved the contrary) that their payments to the Nabob were made out of the revenues they had received from his assignment. Thus they condescended to accumulate a debt of £160,000, with an interest of twelve per cent., in compensation for a lingering payment to the Nabob of £160,000 of his own money.

" Still we have not the whole: about two years after the assignment of those territorial revenues to these gentlemen, the Nabob receives a remonstrance from his chief manager, in a principal province, of which this is the tenor:—' The entire revenue of those districts is by your Highness's order set apart to discharge the tuncaws (assignments) granted to the Europeans. The gomasthas (agents) of Mr. Taylor, to Mr. De Fries, are there in order to collect those tuncaws; and as they receive all the revenue that is collected, your Highness's troops have seven or eight months' pay due, which they cannot receive, and are thereby reduced to the greatest distress. In such times, it is highly necessary to provide for the sustenance of the troops, that they may be ready to exert themselves in the service of your Highness.'

" Here, Sir, you see how these causes and effects act upon one another. One body of troops mutinies for want of pay; a debt is contracted to pay them; and they still remain unpaid. A territory destined to pay other troops is assigned for this debt; and these other troops fall into the same state of indigence and mutiny with the first. Bond is paid by bond; arrear is turned into new arrear; usury engenders new usury; mutiny, suspended in one quarter, starts up in another; until all the revenues and all the establishments are entangled into one inextricable knot of confusion, from which they are only disengaged by being entirely destroyed. In that state of confusion, in a very few months after the date of the memorial I have just read to you, things were found, when the Nabob's troops, famished to feed English soucars,* instead of defending the country, joined the invaders, and deserted in entire bodies to Hyder Ali.†

" The manner in which this transaction was carried on, shows that good examples are not easily forgot, especially by those who are bred in a great school. One of those splendid examples give me leave to mention, at a somewhat more early period, because one fraud furnishes light to the discovery of

* *I. e.*, Money-dealers.

† In 1780 Hyder Ali took possession of Arcot and the principal forts of the Carnatic.

another, and so on, until the whole secret of mysterious iniquity bursts upon you in a blaze of detection. The paper I shall read you is not on record. If you please you may take it on my word. It is a letter written from one of undoubted information in Madras, to Sir John Clavering, describing the practice that prevailed there, whilst the Company's allies were under sale, during the time of Governor Winch's administration.

"'One mode,' says Clavering's correspondent, 'of amassing money at the Nabob's cost is curious. He is generally in arrears to the Company. Here the Governor, being cash-keeper, is generally on good terms with the banker, who manages matters thus: the Governor presses the Nabob for the balance due from him; the Nabob flies to his banker for relief; the banker engages to pay the money, and grants his notes accordingly, which he puts in the cash-book as ready money; the Nabob pays him an interest for it at two and three per cent. per mensem, till the tuncaws he grants on the particular districts for it are paid. Matters in the meantime are so managed, that there is no call for this money for the Company's service till the tuncaws become due. By this means not a cash is advanced by the banker, though he receives a heavy interest from the Nabob, which is divided as lawful spoil.'

"Here, Mr. Speaker, you have the whole art and mystery, the true free-mason secret of the profession of soucaring; by which a few innocent, inexperienced young Englishmen, such as Mr. Paul Benfield,* for instance, without property upon which any one would lend to themselves a single shilling, are enabled at once to take provinces in mortgage, to make princes their debtors, and to become creditors for millions.

"But it seems the right honourable gentleman's favourite soucar cavalry have proved the payment before the mayor's court at Madras! Have they so? Why then defraud our anxiety and their characters of that proof? Is it not enough that the charges which I have laid before you have stood on record against these poor injured gentlemen for eight years? Is it not enough that they are in print by the orders of the East India Company for five years? After these gentlemen have borne all the odium of this publication, and all the indignation of the Directors, with such unexampled equanimity, now that they are at length stimulated into feeling, are you to deny them their just relief? But will the right honourable gentleman be pleased to tell us, how they came not to give this satisfaction to the Court of Directors, their lawful masters, during all the eight years of this litigated claim? Were they not bound, by every tie that can bind man, to give them this satisfaction? This day, for the first time, we hear of the proofs. But when were these proofs offered? In what cause? Who were the parties? Who inspected? Who contested this belated account? Let us see something to oppose to the body of record which appears against them. The Mayor's Court! the Mayor's Court! Pleasant! Does not the right honourable gentleman know, that the first corps of creditors (the creditors of 1767) stated it as a sort of hardship

* See note, *ante*, p. 713.

to them, that they could not have justice at Madras, from the impossibility of their supporting their claims in the Mayor's Court? Why? because, say they, the members of that court were themselves creditors, and, therefore, could not sit as judges.* Are we ripe to say that no creditor under similar circumstances was member of the Court, when the payment which is the ground of this cavalry-debt was put in proof?† Nay, are we not in a manner compelled to conclude, that the Court was so constituted, when we know there is scarcely a man in Madras, who has not some participation in these transactions? It is a shame to hear such proofs mentioned, instead of the honest vigorous scrutiny which the circumstances of such an affair so indispensably calls for.

"But his Majesty's Ministers, indulgent enough to other scrutinies, have not been satisfied with authorising the payment of this demand without such inquiry as the act has prescribed; but they have added the arrear of twelve per cent. interest, from the year 1777 to the year 1784, to make a new capital, raising thereby 160 to £294,000. Then they charge a new twelve per cent. on the whole from that period, for a transaction, in which it will be a miracle if a single penny will be ever found really advanced from the private stock of the pretended creditors.

"In this manner, and at such an interest, the Ministers have thought proper to dispose of £294,000 of the public revenues, for what is called the cavalry-loan. After dispatching this, the right honourable gentleman leads to battle his last grand division, the consolidated debt of 1777. But having exhausted all his panegyric on the two first, he has nothing at all to say in favour of the last. On the contrary, he admits that it was contracted in defiance of the Company's orders, without even the pretended sanction of any pretended representatives. Nobody, indeed, has yet been found hardy enough to stand forth avowedly in its defence. But it is little to the credit of the age, that what has not plausibility enough to find an advocate, has influence enough to obtain a protector. Could any man expect to find that protector anywhere? But what must every man think, when he finds that protector in the Chairman of the Committee of Secrecy,‡ who had published to the House, and to the world, the facts that condemn these debts—the orders that forbid the incurring of them—the dreadful consequences which attended them. Even in his official letter, when he tramples on his Parliamentary report, yet his general language is the same. Read the preface to

* Memorial from the creditors to the Governor and Council, 22d January, 1770.

† In the year 1778, Mr. James Call, one of the proprietors of this specific debt, was actually mayor. The only proof which appeared on the inquiry instituted in the General Court of 1781 was an affidavit of the lenders themselves, deposing (what nobody ever denied!) that they had engaged and agreed to pay, not that they had paid, the sum of £160,000. This was two years after the transaction; and the affidavit is made before George Proctor, Mayor, an attorney for certain of the old creditors. (Proceedings of the President and Council of Fort St. George, 22d February, 1779.)

‡ Mr. Dundas.

this part of the ministerial arrangement, and you would imagine that this debt was to be crushed, with all the weight of indignation which could fall from a vigilant guardian of the public treasury, upon those who attempted to rob it. What must be felt by every man who has feeling, when, after such a thundering preamble of condemnation, this debt is ordered to be paid without any sort of inquiry into its authenticity; without a single step taken to settle even the amount of the demand; without an attempt so much as to ascertain the real persons claiming a sum, which rises in the accounts from £1,300,000 sterling to £2,400,000 principal money; without an attempt made to ascertain the proprietors, of whom no list has ever yet been laid before the Court of Directors; of proprietors who are known to be in a collusive shuffle, by which they never appear to be the same in any two lists, handed about for their own particular purposes?

"My right honourable friend,* who made you the motion, has sufficiently exposed the nature of this debt. He has stated to you that its own agents, in the year 1781, in the arrangement they proposed to make at Calcutta, were satisfied to have 25 per cent. at once struck off from the capital of a great part of this debt; and prayed to have a provision made for this reduced principal, without any interest at all. This was an arrangement of their own, an arrangement made by those who best knew the true constitution of their own debt; who knew how little favour it merited,† and how little hopes they had to find any persons in authority abandoned enough to support it as it stood.

"But what corrupt men, in the fond imaginations of a sanguine avarice, had not the confidence to propose, they have found a Chancellor of the Exchequer in England hardy enough to undertake for them. He has cheered their drooping spirits. He has thanked the peculators for not despairing of their commonwealth. He has told them they were too modest. He has replaced the 25 per cent. which, in order to lighten themselves, they had abandoned in their conscious terror. Instead of cutting off the interest, as they had themselves consented to do, with the fourth of the capital, he has added the whole growth of four years' usury of 12 per cent. to the first overgrown principal; and has again grafted on this meliorated stock a perpetual annuity of 6 per cent., to take place from the year 1781. Let no man hereafter talk of the decaying energies of nature. All the acts and monuments in the

* Mr. Fox.

† "No sense of the common danger, in case of a war, can prevail on him [the Nabob of Arcot] to furnish the Company with what is absolutely necessary to assemble an army, though it is beyond a doubt, that money to a large amount is now hoarded up in his coffers at Chepauk; and tuncaws are granted to individuals, upon some of his most valuable countries, for payment of a part of those debts which he has contracted, and which certainly will not bear inspection, as neither debtors nor creditors have ever had the confidence to submit the accounts to our examination, though they expressed a wish to consolidate the debts under the auspices of this government, agreeably to a plan they had formed."—Madras Consultations, 20th July, 1778.

records of peculation; the consolidated corruption of ages; the patterns of exemplary plunder in the heroic times of Roman iniquity, never equalled the gigantic corruption of this single act. Never did Nero, in all the insolent prodigality of despotism, deal out to his prætorian guards a donation fit to be named with the largess showered down by the bounty of our Chancellor of the Exchequer on the faithful band of his Indian sepoys.

"The right honourable gentleman (Mr. Dundas) lets you freely and voluntarily into the whole transaction. So perfectly has his conduct confounded his understanding, that he fairly tells you, that through the course of the whole business he has never conferred with any but the agents of the pretended creditors. After this, do you want more to establish a secret understanding with the parties? to fix, beyond a doubt, their collusion and participation in a common fraud? If this were not enough, he has furnished you with other presumptions that are not to be shaken. It is one of the known indications of guilt to stagger and prevaricate in a story; and to vary in the motives that are assigned to conduct. Try these ministers by this rule. In their official despatch, they tell the presidency of Madras, that they have established the debt for two reasons; first, because the Nabob (the party indebted) does not dispute it; secondly, because it is mischievous to keep it longer afloat; and that the payment of the European creditors will promote circulation in the country. These two motives (for the plainest reasons in the world) the right honourable gentleman has this day thought fit totally to abandon. In the first place, he rejects the authority of the Nabob of Arcot. It would indeed be pleasant to see him adhere to this exploded testimony. He next, upon grounds equally solid, abandons the benefits of that circulation, which was to be produced by drawing out all the juices of the body. Laying aside, or forgetting, these pretences of his despatch, he has just now assumed a principle totally different, but to the full as extraordinary. He proceeds upon a supposition that many of the claims may be fictitious. He then finds, that in a case where many valid and many fraudulent claims are blended together, the best course for their discrimination is indiscriminately to establish them all. He trusts (I suppose), as there may not be a fund sufficient for every description of creditors, that the best warranted claimants will exert themselves in bringing to light those debts which will not bear an inquiry. What he will not do himself, he is persuaded will be done by others; and for this purpose he leaves to any person a general power of excepting to the debt. This total change of language and prevarication in principle is enough, if it stood alone, to fix the presumption of unfair dealing. His despatch assigns motives of policy, concord, trade, and circulation. His speech proclaims discord and litigations; and proposes, as the ultimate end, detection.

"But he may shift his reasons, and wind and turn as he will, confusion waits him at all his doubles. Who will undertake this detection? Will the Nabob? But the right honourable gentleman has himself this moment told us, that no prince of the country can by any motive be prevailed upon to discover any fraud that is practised upon him by the Company's servants. He

says what (with the exception of the complaint against the cavalry-loan) all the world knows to be true: and without that prince's concurrence, what evidence can be had of the fraud of any the smallest of these demands? The minister never authorised any person to enter into his exchequer, and to search his records. Why, then, this shameful and insulting mockery of a pretended contest? Already contests for a preference have arisen among these rival bond creditors. Has not the Company itself struggled for a preference for years, without any attempt at detection of the nature of those debts with which they contended? Well is the Nabob of Arcot attended to in the only specific complaint he has ever made. He complained of unfair dealing in the cavalry-loan. It is fixed upon him with interest on interest; and this loan is excepted from all power of litigation.

"This day, and not before, the right honourable gentleman thinks that the general establishment of all claims is the surest way of laying open the fraud of some of them. In India this is a reach of deep policy. But what would be thought of this mode of acting on a demand upon the treasury in England? Instead of all this cunning, is there not one plain way open, that is, to put the burthen of the proof on those who make the demand? Ought not Ministry to have said to the creditors, 'The person who admits your debt stands excepted to as evidence; he stands charged as a collusive party, to hand over the public revenues to you for sinister purposes? You say, you have a demand of some millions on the Indian treasury; prove that you have acted by lawful authority; prove, at least, that your money has been *bonâ fide* advanced; entitle yourself to my protection, by the fairness and fulness of the communications you make.' Did an honest creditor ever refuse that reasonable and honest test?

"There is little doubt, that several individuals have been seduced by the purveyors to the Nabob of Arcot, to put their money (perhaps the whole of honest and laborious earnings) into their hands, and that at such high interest, as, being condemned at law, leaves them at the mercy of the great managers whom they trusted. These seduced creditors are probably persons of no power or interest either in England or India, and may be just objects of compassion. By taking, in this arrangement, no measures for discrimination and discovery, the fraudulent and the fair are, in the first instance, confounded in one mass. The subsequent selection and distribution is left to the Nabob. With him the agents and instruments of his corruption, whom he sees to be omnipotent in England, and who may serve him in future, as they have done in times past, will have precedence, if not an exclusive preference. These leading interests domineer, and have always domineered, over the whole. By this arrangement, the persons seduced are made dependent on their seducers; honesty (comparative honesty at least) must become of the party of fraud, and must quit its proper character, and its just claims, to entitle itself to the alms of bribery and peculation.

"But be these English creditors what they may, the creditors, most certainly not fraudulent, are the natives, who are numerous and wretched,

indeed: by exhausting the whole revenues of the Carnatic, nothing is left for them. They lent *bonâ fide;* in all probability they were even forced to lend, or to give goods and service for the Nabob's obligations. They had no trusts to carry to his market. They had no faith of alliances to sell. They had no nations to betray to robbery and ruin. They had no lawful government seditiously to overturn; nor had they a governor* to whom it is owing that you exist in India, to deliver over to captivity, and to death, in a shameful prison.

"These were the merits of the principal part of the debt of 1777, and the universally conceived causes of its growth; and thus the unhappy natives are deprived of every hope of payment for their real debts, to make provision for the arrears of unsatisfied bribery and treason. You see, in this instance, that the presumption of guilt is not only no exception to the demands on the public treasury; but with these Ministers it is a necessary condition to their support. But that you may not think this preference solely owing to their known contempt of the natives, who ought with every generous mind to claim their first charities; you will find the same rule religiously observed with Europeans too. Attend, Sir, to this decisive case. Since the beginning of the war, besides arrears of every kind, a bond debt has been contracted at Madras, uncertain in its amount, but represented from £400,000 to a million sterling. It stands only at the low interest of 8 per cent. Of the legal authority on which this debt was contracted, of its purposes for the very being of the state, of its publicity and fairness, no doubt has been entertained for a moment. For this debt, no sort of provision whatever has been made. It is rejected as an outcast, whilst the whole undissipated attention of the Minister has been employed for the discharge of claims entitled to his favour by the merits we have seen.

"I have endeavoured to find out, if possible, the amount of the whole of those demands, in order to see how much, supposing the country in a condition to furnish the fund, may remain to satisfy the public debt and the necessary establishments. But I have been foiled in my attempt. About one-fourth, that is, about £220,000, of the loan of 1767, remains unpaid. How much interest is in arrear, I could never discover; seven or eight years at least, which would make the whole of that debt about £396,000. This stock, which the Ministers, in their instructions to the governor of Madras, state as the least exceptionable, they have thought proper to distinguish by a marked severity, leaving it the only one, on which the interest is not added to the principal, to beget a new interest.

"The cavalry-loan, by the operation of the same authority, is made up to £294,000, and this £294,000, made up of principal and interest, is crowned with a new interest of 12 per cent. What the grand loan, the bribery loan of 1777, may be, is amongst the deepest mysteries of state. It is probably the first debt ever assuming the title of consolidation, that did not express

* Lord Pigot.

what the amount of the sum consolidated was. It is little less than a contradiction in terms. In the debt of the year 1767, the sum was stated in the act of consolidation, and made to amount to £880,000 capital. When this consolidation of 1777 was first announced at the Durbar, it was represented authentically at £2,400,000. In that, or rather in a higher state, Sir Thomas Rumbold found and condemned it.* It afterwards fell into such a terror, as to sweat away a million of its weight at once; and it sunk to £1,400,000.† However, it never was without a resource for recruiting it to its old plumpness. There was a sort of floating debt of about £400,000 or £500,000 more ready to be added, as occasion should require.

"In short, when you pressed this sensitive plant, it always contracted its dimensions. When the rude hand of inquiry was withdrawn, it expanded in all the luxuriant vigour of its original vegetation. In the treaty of 1781, the whole of the Nabob's debt to private Europeans is, by Mr. Sullivan, agent to the Nabob and his creditors, stated at £2,800,000, which (if the cavalry-loan, and the remains of the debt of 1767, be subtracted) leaves it nearly at the amount originally declared at the Durbar, in 1777. But then there is a private instruction to Mr. Sullivan, which, it seems, will reduce it again to the lower standard of £1,400,000. Failing in all my attempts, by a direct account, to ascertain the extent of the capital claimed (where, in all probability, no capital was ever advanced), I endeavoured, if possible, to discover it by the interest which was to be paid. For that purpose, I looked to the several agreements for assigning the territories of the Carnatic to secure the principal and interest of this debt. In one of them‡ I found, in a sort of postscript, by way of an additional remark (not in the body of the obligation), the debt represented at £1,400,000. But when I computed the sums to be paid for

* In Sir Thomas Rumbold's letter to the Court of Directors, March 15, 1778, he represents it as higher, in the following manner:—"How shall I paint to you my astonishment on my arrival here, when I was informed that, independent of this four lacs of pagodas (the cavalry-loan), independent of the Nabob's debt to his old creditors, and the money due to the Company, he had contracted a debt to the enormous amount of 63 lacs of pagodas (£2,520,000). I mention this circumstance to you with horror; for the creditors being, in general, the servants of the Company, renders my task on the part of the Company difficult and invidious."—"I have freed the sanction of this government from so corrupt a transaction. It is, in my mind, the most venal of all proceedings, to give the Company's protection to debts that cannot bear the light; and though it appears exceedingly alarming, that a country, on which you are to depend for resources, should be so involved, as to be nearly three years' revenue in debt; in a country, too, where one year's revenue can never be called secure, by men who know anything of the politics of this part of India."—"I think it proper to mention to you, that although the Nabob reports his private debt to amount to upwards of 60 lacs, yet I understand that it is not quite so much." Afterwards, Sir T. Rumbold recommended this debt to the favourable attention of the Company, but without any sufficient reason for his change of disposition. However, he went no further.

† Nabob's Proposals, November 25, 1778; and Memorial of the Creditors, March 1, 1779.

‡ Nabob's Proposals to his new consolidated creditors, November 25, 1778.

interest by instalments in another paper, I found they produced an interest of two millions, at 12 per cent., and the assignment supposed, that if these instalments might exceed, they might also fall short of the real provision for that interest.

"Another instalment bond was afterwards granted. In that bond the interest exactly tallies with a capital of £1,400,000. But pursuing this capital through the correspondence, I lost sight of it again; and it was asserted that this instalment bond was considerably short of the interest that ought to be computed to the time mentioned. Here are, therefore, two statements of equal authority, differing, at least, a million from each other; and, as neither persons claiming, nor any special sum as belonging to each particular claimant, is ascertained in the instruments of consolidation, or in the instalment bonds, a large scope was left to throw in any sums for any persons, as their merits in advancing the interest of that loan might require; a power was also left for reduction, in case a harder hand, or more scanty funds, might be found to require it. Stronger grounds for a presumption of fraud never appeared in any transaction. But the Ministers, faithful to the plan of the interested persons, whom alone they thought fit to confer with on this occasion, have ordered the payment of the whole mass of these unknown unliquidated sums, without an attempt to ascertain them. On this conduct, Sir, I leave you to make your own reflections.

"It is impossible (at least I have found it impossible) to fix on the real amount of the pretended debts with which your Ministers have thought proper to load the Carnatic. They are obscure; they shun inquiry; they are enormous. That is all you know of them. That you may judge what chance any honourable and useful end of Government has for a provision that comes in for the leavings of these gluttonous demands, I must take it on myself to bring before you the real condition of that abused, insulted, racked, and ruined country; though, in truth, my mind revolts from it; though you will hear it with horror; and I confess I tremble when I think on these awful and confounding dispensations of Providence. I shall first trouble you with a few words as to the cause.

"The great fortunes made in India in the beginnings of conquest, naturally excited an emulation in all the parts, and through the whole succession of the Company's service. But in the Company it gave rise to other sentiments. They did not find the new channels of acquisition flow with equal riches to them. On the contrary, the high flood-tide of private emolument was generally in the lowest ebb of their affairs. They began also to fear, that the fortune of war might take away what the fortune of war had given. Wars were accordingly discouraged by repeated injunctions and menaces; and, that the servants might not be bribed into them by the native princes, they were strictly forbidden to take any money whatsoever from their hands. But vehement passion is ingenious in resources. The Company's servants were not only stimulated, but better instructed by the prohibition. They soon fell upon a contrivance which answered their purposes far better than the methods

which were forbidden: though in this, also, they violated an ancient, but, they thought, an abrogated order. They reversed their proceedings. Instead of receiving presents, they made loans. Instead of carrying on wars in their own name, they contrived an authority, at once irresistible and irresponsible, in whose name they might ravage at pleasure; and, being thus freed from all restraint, they indulged themselves in the most extravagant speculations of plunder. The cabal of creditors who have been the object of the late bountiful grant from his Majesty's Ministers, in order to possess themselves, under the name of creditors and assignees, of every country in India, as fast as it should be conquered, inspired into the mind of the Nabob of Arcot (then a dependant on the Company of the humblest order) a scheme of the most wild and desperate ambition that, I believe, ever was admitted into the thoughts of a man so situated. First, they persuaded him to consider himself as a principal member in the political system of Europe. In the next place, they held out to him, and he readily imbibed, the idea of the general empire of Hindostan. As a preliminary to this undertaking, they prevailed on him to propose a tripartite division of that vast country. One part to the Company; another to the Mahrattas; and the third to himself. To himself he reserved all the southern part of the great peninsula, comprehended under the general name of the Deccan.

"On this scheme of their servants, the Company was to appear in the Carnatic in no other light than as a contractor for the provision of armies, and the hire of mercenaries for his use, and under his direction. This disposition was to be secured by the Nabob's putting himself under the guarantee of France; and, by the means of that rival nation, preventing the English for ever from assuming an equality, much less a superiority, in the Carnatic. In pursuance of this treasonable project (treasonable on the part of the English), they extinguished the Company as a sovereign power in that part of India; they withdrew the Company's garrisons out of all the forts and strongholds of the Carnatic; they declined to receive the ambassadors from foreign courts, and remitted them to the Nabob of Arcot; they fell upon and totally destroyed the oldest ally of the Company, the King of Tanjore, and plundered the country to the amount of near five millions sterling; one after another, in the Nabob's name, but with English force, they brought into a miserable servitude all the princes, and great independent nobility of a vast country.* In proportion to these treasons and violences, which ruined the people, the fund of the Nabob's debt grew and flourished.

"Among the victims to this magnificent plan of universal plunder, worthy

* "The principal object of the expedition is to get money from Tanjore to pay the Nabob's debt: if a surplus, to be applied in discharge of the Nabob's debts to his private creditors."—Consultations, March 20, 1771; and for further lights, Consultations, 12th June, 1771. "We are alarmed, lest this debt to individuals should have been the real motive for the aggrandisement of Mahomed Ali (the Nabob of Arcot), and that we are plunged into a war to put him in possession of the Mysore revenues for the discharge of the debt."—Letter from the Directors, March 17, 1769.

of the heroic avarice of the projectors, you have all heard (and he has made himself to be well remembered) of an Indian chief, called Hyder Ali Khan. This man possessed the western,* as the Company, under the name of the Nabob of Arcot, does the eastern, division of the Carnatic. It was among the leading measures in the design of this cabal (according to their own emphatic language) to extirpate this Hyder Ali.† They declared the Nabob of Arcot to be his sovereign, and himself to be a rebel, and publicly invested their instrument with the sovereignty of the kingdom of Mysore. But their victim was not of the passive kind. They were soon obliged to conclude a treaty of peace and close alliance with this rebel, at the gates of Madras.‡ Both before and since this treaty, every principle of policy pointed out this power as a natural alliance; and on his part it was courted by every sort of amicable office. But the Cabinet Council of English creditors would not suffer their Nabob of Arcot to sign the treaty, nor even to give to a prince, at least his equal, the ordinary titles of respect and courtesy.§ From that time forward, a continued plot was carried on within the divan, black and white, of the Nabob of Arcot, for the destruction of Hyder Ali. As to the outward members of the double, or rather treble, government of Madras, which had signed the treaty, they were always prevented by some over-ruling influence (which they do not describe, but which cannot be misunderstood,) from performing what justice and interest combined so evidently to enforce.

"When, at length, Hyder Ali found that he had to do with men who either would sign no convention, or whom no treaty and no signature could bind, and who were the determined enemies of human intercourse itself, he decreed to make the country possessed by these incorrigible and predestinated criminals a memorable example to mankind. He resolved, in the gloomy recesses of a mind capacious of such things, to leave the whole Carnatic an everlasting monument of vengeance, and to put perpetual desolation as a barrier between him and those, against whom the faith which holds the moral elements of the world together, was no protection. He became at length so confident of his force, so collected in his might, that he made no secret whatsoever of his dreadful resolution. Having terminated his disputes with every enemy and every rival, who buried their mutual animosities in their common detestation against the creditors of the Nabob of Arcot, he drew from every quarter whatever a savage ferocity could add to his new rudiments in the arts of destruction; and, compounding all the materials of

* The Mysore.

† Letter from the Nabob, May 1, 1768; and ditto, 24th April, 1770, 1st October; ditto, 16th September, 1772, 16th March, 1773.

‡ In 1769, when Hyder Ali, having artfully succeeded in drawing the British army a long distance from Madras, made a sudden descent on that city at the head of 6,000 horse, having performed a march of 120 miles in three days. The city being unable to offer much resistance, a treaty was concluded on 4th April, 1769, by which the mutual restitution of conquests and mutual defence were agreed on.

§ Letter from the Presidency at Madras to the Court of Directors, 27th June, 1769.

fury, havoc, and desolation, into one black cloud, he hung for a while on the declivities of the mountains. Whilst the authors of all these evils were idly and stupidly gazing on this menacing meteor, which blackened all their horizon, it suddenly burst, and poured down the whole of its contents upon the plains of the Carnatic.* Then ensued a scene of woe, the like of which no eye had seen, no heart conceived, and which no tongue can adequately tell. All the horrors of war, before known or heard of, were mercy to that new havoc. A storm of universal fire blasted every field, consumed every house, destroyed every temple. The miserable inhabitants, flying from their flaming villages, in part were slaughtered; others, without regard to sex, to age, to the respect of rank, or sacredness of function; fathers torn from children, husbands from wives, enveloped in a whirlwind of cavalry, and amidst the goading spears of drivers, and the trampling of pursuing horses, were swept into captivity in an unknown and hostile land. Those who were able to evade this tempest, fled to the walled cities. But, escaping from fire, sword, and exile, they fell into the jaws of famine.

"The alms of the settlement, in this dreadful exigency, were certainly liberal; and all was done by charity that private charity could do; but it was a people in beggary; it was a nation which stretched out its hands for food. For months together these creatures of sufferance, whose very excess and luxury, in their most plenteous days, had fallen short of the allowance of our austerest fasts, silent, patient, resigned, without sedition or disturbance, almost without complaint, perished by a hundred a-day in the streets of Madras; every day seventy, at least, laid their bodies in the streets, or on the glacis of Tanjore, and expired of famine in the granary of India. I was going to awake your justice towards this unhappy part of our fellow-citizens, by bringing before you some of the circumstances of this plague of hunger. Of all the calamities which beset and waylay the life of man, this comes the nearest to our heart, and is that wherein the proudest of us all feels himself to be nothing more than he is: but I find myself unable to manage it with decorum; these details are of a species of horror so nauseous and digusting; they are so degrading to the sufferers and to the hearers; they are so humiliating to human nature itself, that, on better thoughts, I find it more advisable to throw a pall over this hideous object, and to leave it to your general conceptions.

"For eighteen months, without intermission, this destruction raged from the gates of Madras to the gates of Tanjore; and so completely did these masters in their art, Hyder Ali, and his more ferocious son,† absolve themselves of their impious vow, that when the British armies traversed, as they did, the Carnatic for hundreds of miles in all directions, through the whole line of their march they did not see one man, not one woman, not one child, not one four-footed beast of any description whatever. One dead uniform silence reigned over the whole region. With the inconsi-

* See note, *ante*, p. 678.

† Tippoo Saib.

derable exceptions of the narrow vicinage of some few forts—I wish to be understood as speaking literally—I mean to produce to you more than three witnesses, above all exception, who will support this assertion in its full extent. That hurricane of war passed through every part of the central provinces of the Carnatic. Six or seven districts to the north and to the south (and these not wholly untouched) escaped the general ravage.

"The Carnatic is a country not much inferior in extent to England. Figure to yourself, Mr. Speaker, the land in whose representative chair you sit; figure to yourself the form and fashion of your sweet and cheerful country from Thames to Trent, north and south, and from the Irish to the German sea, east and west, emptied and embowelled (may God avert the omen of our crimes!) by so accomplished a desolation. Extend your imagination a little further, and then suppose your Ministers taking a survey of this scene of waste and desolation; what would be your thoughts if you should be informed, that they were computing how much had been the amount of the excises, how much the customs, how much the land and malt tax, in order that they should charge (take it in the most favourable light) for public service, upon the relics of the satiated vengeance of relentless enemies, the whole of what England had yielded in the most exuberant seasons of peace and abundance? What would you call it? To call it tyranny sublimed into madness, would be too faint an image; yet this very madness is the principle upon which the Ministers at your right hand have proceeded in their estimate of the revenues of the Carnatic, when they were providing not supply for the establishments of its protection, but rewards for the authors of its ruin.

"Every day you are fatigued and disgusted with this cant, 'The Carnatic is a country that will soon recover, and become instantly as prosperous as ever.' They think they are talking to innocents, who will believe that by sowing of dragons' teeth, men may come up ready grown and ready armed. They who will give themselves the trouble of considering (for it requires no great reach of thought, no very profound knowledge) the manner in which mankind are increased and countries cultivated, will regard all this raving as it ought to be regarded. In order that the people, after a long period of vexation and plunder, may be in a condition to maintain Government, Government must begin by maintaining them. Here the road to economy lies not through receipt, but through expense; and in that country nature has given no short cut to your object. Men must propagate, like other animals, by the mouth. Never did oppression light the nuptial torch; never did extortion and usury spread out the genial bed. Does any one of you think that England, so wasted, would, under such a nursing attendance, so rapidly and cheaply recover? But he is meanly acquainted with either England or India, who does not know that England would a thousand times sooner resume population, fertility, and what ought to be the ultimate secretion from both, revenue, than such a country as the Carnatic.

"The Carnatic is not by the bounty of nature a fertile soil. The general

size of its cattle is proof enough that it is much otherwise. It is some days since I moved, that a curious and interesting map, kept in the India-house, should be laid before you.* The India-house is not yet in readiness to send it; I have, therefore, brought down my own copy, and there it lies for the use of any gentleman who may think such a matter worthy of his attention. It is, indeed, a noble map, and of noble things; but it is decisive against the golden dreams and sanguine speculations of avarice run mad. In addition to what you know must be the case in every part of the world, (the necessity of a previous provision of habitation, seed, stock, capital,) that map will show you, that the uses of the influences of Heaven itself, are in that country a work of art. The Carnatic is refreshed by few or no living brooks or running streams, and it has rain only at a season; but its product of rice exacts the use of water subject to perpetual command. This is the national bank of the Carnatic, on which it must have a perpetual credit, or it perishes irretrievably. For that reason, in the happier times of India, a number, almost incredible, of reservoirs have been made in chosen places throughout the whole country; they are formed, for the greater part, of mounds of earth and stones, with sluices of solid masonry; the whole constructed with admirable skill and labour, and maintained at a mighty charge. In the territory contained in that map alone, I have been at the trouble of reckoning the reservoirs, and they amount to upwards of eleven hundred, from the extent of two or three acres to five miles in circuit. From these reservoirs currents are occasionally drawn over the fields, and these watercourses again call for a considerable expense to keep them properly scoured and duly levelled. Taking the district in that map as a measure, there cannot be in the Carnatic and Tanjore fewer than ten thousand of these reservoirs of the larger and middling dimensions, to say nothing of those for domestic services, and the use of religious purification. These are not the enterprises of your power, nor in a style of magnificence suited to the taste of your Minister. These are the monuments of real kings, who were the fathers of their people; testators to a posterity which they embraced as their own. These are the grand sepulchres built by ambition; but by the ambition of an insatiable benevolence, which, not contented with reigning in the dispensation of happiness during the contracted term of human life, had strained, with all the reachings and graspings of a vivacious mind, to extend the dominion of their bounty beyond the limits of nature, and to perpetuate themselves through generations of generations, the guardians, the protectors, the nourishers of mankind.

"Long before the late invasion, the persons who are objects of the grant of public money now before you, had so diverted the supply of the pious funds of culture and population, that everywhere the reservoirs were fallen into a miserable decay. But after those domestic enemies had provoked the entry of a cruel foreign foe into the country, he did not leave it, until his

* Mr. Barnard's map of the Jaghire.

revenge had completed the destruction begun by their avarice. Few, very few indeed, of these magazines of water that are not either totally destroyed, or cut through with such gaps, as to require a serious attention and much cost to re-establish them, as the means of present subsistence to the people, and of future revenue to the State.

"What, Sir, would a virtuous and enlightened Ministry do on the view of the ruins of such works before them?—on the view of such a chasm of desolation as that which yawned in the midst of those countries to the north and south, which still bore some vestiges of cultivation? They would have reduced all their most necessary establishments; they would have suspended the justest payments; they would have employed every shilling derived from the producing, to re-animate the powers of the unproductive parts. While they were performing this fundamental duty, whilst they were celebrating these mysteries of justice and humanity, they would have told the corps of fictitious creditors, whose crimes were their claims, that they must keep an awful distance; that they must silence their inauspicious tongues; that they must hold off their profane unhallowed paws from this holy work; they would have proclaimed with a voice that should make itself heard, that on every country the first creditor is the plough; that this original indefeasible claim supersedes every other demand.

"This is what a wise and virtuous ministry would have done and said. This, therefore, is what our Minister could never think of saying or doing. A ministry of another kind would have first improved the country, and have thus laid a solid foundation for future opulence and future force. But on this grand point of the restoration of the country, there is not one syllable to be found in the correspondence of our Ministers, from the first to the last: they felt nothing for a land desolated by fire, sword, and famine; their sympathies took another direction; they were touched with pity for bribery, so long tormented with a fruitless itching of its palms; their bowels yearned for usury, that had long missed the harvest of its returning months;* they felt for peculation which had been for so many years raking in the dust of an empty treasury; they were melted into compassion for rapine and oppression, licking their dry, parched, unbloody jaws. These were the objects of their solicitude. These were the necessities for which they were studious to provide.

"To state the country and its revenues in their real condition, and to provide for those fictitious claims, consistently with the support of an army and a civil establishment, would have been impossible; therefore, the Ministers are silent on that head, and rest themselves on the authority of Lord Macartney,† who, in a letter to the Court of Directors, written in the year 1781, speculating on what might be the result of a wise management of the countries assigned by the Nabob of Arcot, rates the revenue as in time of peace, at twelve hundred thousand pounds a year, as he does those of the

* Interest is rated in India by the month. † Governor of Madras.

King of Tanjore (which had not been assigned) at four hundred and fifty. On this Lord Macartney grounds his calculations, and on this they choose to ground theirs. It was on this calculation that the Ministry, in direct opposition to the remonstrances of the Court of Directors, have compelled that miserable, enslaved body, to put their hands to an order for appropriating the enormous sum of £480,000 annually, as a fund for paying to their rebellious servants a debt contracted in defiance of their clearest and most positive injunctions.

"The authority and information of Lord Macartney is held high on this occasion, though it is totally rejected in every other particular of this business. I believe I have the honour of being almost as old an acquaintance as any Lord Macartney has. A constant and unbroken friendship has subsisted between us from a very early period; and, I trust, he thinks that, as I respect his character, and in general admire his conduct, I am one of those who feel no common interest in his reputation. Yet I do not hesitate wholly to disallow the calculation of 1781, without any apprehension that I shall appear to distrust his veracity or his judgment. This peace-estimate of revenue was not grounded on the state of the Carnatic as it then, or as it had recently, stood. It was a statement of former and better times. There is no doubt that a period did exist, when the large portion of the Carnatic held by the Nabob of Arcot might be fairly reputed to produce a revenue to that, or to a greater, amount. But the whole had so melted away by the slow and silent hostility of oppression and mismanagement, that the revenue, sinking with the prosperity of the country, had fallen to about £800,000 a year, even before an enemy's horse had imprinted his hoof on the soil of the Carnatic. From that view, and independently of the decisive effects of the war which ensued, Sir Eyre Coote conceived that years must pass before the country could be restored to its former prosperity and production. It was that state of revenue (namely, the actual state before the war) which the Directors have opposed to Lord Macartney's speculation. They refused to take the revenues for more than £800,000. In this they are justified by Lord Macartney himself, who, in a subsequent letter, informs the Court that his sketch is a matter of speculation; it supposes the country restored to its ancient prosperity, and the revenue to be in a course of effective and honest collection. If, therefore, the Ministers have gone wrong, they were not deceived by Lord Macartney; they were deceived by no man. The estimate of the Directors is nearly the very estimate furnished by the right honourable gentleman himself, and published to the world in one of the printed reports of his own committee; but as soon as he obtained his power, he chose to abandon his account. No part of his official conduct can be defended on the ground of his parliamentary information.

"In this clashing of accounts and estimates, ought not the Ministry, if they wished to preserve even appearances, to have waited for information of the actual result of these speculations, before they laid a charge, and such a charge, not conditionally and eventually, but positively and authoritatively, upon a country

which they all knew, and which one of them had registered on the records of this House, to be wasted beyond all example, by every oppression of an abusive government, and every ravage of a desolating war. But that you may discern in what manner they use the correspondence of office, and that thereby you may enter into the true spirit of the ministerial board of control, I desire you, Mr. Speaker, to remark, that through their whole controversy with the Court of Directors, they do not so much as hint at their ever having seen any other paper from Lord Macartney, or any other estimate of revenue than this of 1781. To this they hold. Here they take post; here they entrench themselves.

"When I first read this curious controversy between the ministerial board and the Court of Directors, common candour obliged me to attribute their tenacious adherence to the estimate of 1781 to a total ignorance of what had appeared upon the records. But the right honourable gentleman has chosen to come forward with an uncalled-for declaration; he boastingly tells you that he has seen, read, digested, compared everything; and that if he has sinned he has sinned with his eyes broad open. Since then the Ministers will obstinately shut the gates of mercy on themselves—let them add to their crimes what aggravations they please. They have, then, (since it must be so,) wilfully and corruptly suppressed the information which they ought to have produced; and, for the support of peculation, have made themselves guilty of spoliation and suppression of evidence. The paper I hold in my hand, which totally overturns (for the present at least) the estimate of 1781, they have no more taken notice of in their controversy with the Court of Directors than if it had no existence. It is the report made by a committee appointed at Madras, to manage the whole of the six countries assigned to the Company by the Nabob of Arcot. This committee was wisely instituted by Lord Macartney, to remove from himself the suspicion of all improper management in so invidious a trust; and it seems to have been well chosen. This committee has made a comparative estimate of the only six districts which were in a condition to be let to farm. In one set of columns they state the gross and net produce of the districts as let by the Nabob. To that statement they oppose the terms on which the same districts were rented for five years, under their authority. Under the Nabob the gross farm was so high as £570,000 sterling. What was the clear produce? Why, no more than about £250,000, and this was the whole profit of the Nabob's treasury, under his own management, of all the districts which were in a condition to be let to farm on the 27th of May, 1782. Lord Macartney's leases stipulated a gross produce of no more than about £530,000, but then the estimated net amount was nearly double the Nabob's. It, however, did not then exceed £480,000; and Lord Macartney's commissioners take credit for an annual revenue amounting to this clear sum. Here is no speculation; here is no inaccurate account clandestinely obtained from those who might wish, and were enabled, to deceive. It is the authorised recorded state of a real recent transaction. Here is not £1,200,000—not £800,000. The whole revenue

of the Carnatic yielded no more in May 1782 than £480,000; nearly the very precise sum which your Minister, who is so careful of the public security, has carried from all descriptions of establishment* to form a fund for the private emolument of his creatures.

"In this estimate we see, as I have just observed, the Nabob's farms rated so high as £570,000. Hitherto all is well; but follow on to the effective net revenue: there the illusion vanishes; and you will not find nearly so much as half the produce. It is with reason, therefore, Lord Macartney invariably, throughout the whole correspondence, qualifies all his views and expectations of revenue, and all his plans for its application, with this indispensable condition, that the management is not in the hands of the Nabob of Arcot. Should that fatal measure take place, he has, over and over again, told you that he has no prospect of realising anything whatsoever for any public purpose. With these weighty declarations, confirmed by such a state of indisputable fact before them, what has been done by the Chancellor of the Exchequer and his accomplices? Shall I be believed? They have delivered over those very territories on the keeping of which, in the hands of the committee, the defence of our dominions, and, what was more dear to them, possibly, their own job, depended: they have delivered back again without condition, without arrangement, without stipulation of any sort for the natives of any rank, the whole of those vast countries, to many of which he had no just claim, into the ruinous mismanagement of the Nabob of Arcot. To crown all, according to their miserable practice whenever they do anything transcendently absurd, they preface this their abdication of their trust by a solemn declaration that they were not obliged to it by any principle of policy, or any demand of justice whatsoever.

"I have stated to you the estimated produce of the territories of the Carnatic, in a condition to be farmed in 1782, according to the different managements into which they might fall; and this estimate the Ministers have thought proper to suppress. Since that two other accounts have been received. The first informs us that there has been a recovery of what is called arrear, as well as of an improvement of the revenue of one of the six provinces which were let in 1782.† It was brought about by making a new war. After some sharp actions, by the resolution and skill of Colonel Fullarton, several of the petty princes of the most southerly of the unwasted provinces were compelled to pay very heavy rents and tributes, who for a long time before had not paid any acknowledgment. After this reduction, by the care of Mr. Irwin, one of the committee, that province was divided into twelve farms. This operation raised the income of that particular province; the others remain as they were first farmed. So that instead of producing only their original rent of £480,000, they netted in about two

* Alluding to Mr. Pitt's recent Bill for appointing Commissioners to inquire into the fees, gratuities, perquisites, and emoluments received in several of the public offices, and to examine into and report on any abuses existing in the same.

† The province of Tinnevelly.

years and a quarter £1,320,000 sterling, which would be about £660,000 a year, if the recovered arrear was not included. What deduction is to be made on account of that arrear I cannot determine, but certainly what would reduce the annual income considerably below the rate I have allowed. The second account received, is the letting of the wasted provinces of the Carnatic. This, I understand, is at a growing rent, which may or may not realise what it promises; but if it should answer, it will raise the whole, at some future time, to £1,200,000.

"You must here remark, Mr. Speaker, that this revenue is the produce of all the Nabob's dominion. During the assignment, the Nabob paid nothing, because the Company had all. Supposing the whole of the lately assigned territory to yield up to the most sanguine expectations of the right honourable gentleman; and suppose £1,200,000 to be annually realised (of which we actually know of no more than the realising of £600,000), out of this you must deduct the subsidy and rent which the Nabob paid before the assignment, namely, £340,000 a year. This reduces back the revenue applicable to the new distribution made by his Majesty's Ministers, to about £800,000. Of that sum five-eighths are by them surrendered to the debts. The remaining three are the only fund left for all the purposes so magnificently displayed in the letter of the Board of Control; that is, for a new-cast peace-establishment; a new fund for ordnance and fortifications; and a large allowance for what they call 'the splendour of the Durbar.'

"You have heard the account of these territories as they stood in 1782. You have seen the actual receipt since the assignment in 1781, of which I reckon about two years and a quarter productive. I have stated to you the expectation from the wasted part. For realising all this you may value yourselves on the vigour and diligence of a Governor and Committee that have done so much. If these hopes from the Committee are rational—remember that the Committee is no more. Your Ministers, who have formed their fund for these debts on the presumed effect of the Committee's management, have put a complete end to that Committee. Their acts are rescinded; their leases are broken; their renters are dispersed. Your Ministers knew, when they signed the death-warrant of the Carnatic, that the Nabob would not only turn all these unfortunate farmers of revenue out of employment, but that he has denounced his severest vengeance against them, for acting under British authority. With a knowledge of this disposition, a British Chancellor of the Exchequer, and Treasurer of the Navy, incited by no public advantage, impelled by no public necessity, in a strain of the most wanton perfidy which has ever stained the annals of mankind, have delivered over to plunder, imprisonment, exile, and death itself, according to the mercy of such execrable tyrants as Amir ul Omra* and Paul Benfield, the unhappy and deluded souls, who, untaught by uniform example, were still weak enough to put their trust in English faith. They have gone further; they have thought

* See note, *ante*, p. 679.

proper to mock and outrage their misery by ordering them protection and compensation. From what power is this protection to be derived? And from what fund is this compensation to arise? The revenues are delivered over to their oppressor; the territorial jurisdiction, from whence that revenue is to arise, and under which they live, is surrendered to the same iron hands; and that they shall be deprived of all refuge, and all hope, the Minister has made a solemn, voluntary declaration, that he never will interfere with the Nabob's internal government.

"The last thing considered by the Board of Control among the debts of the Carnatic, was that arising to the East India Company, which, after the provision for the cavalry, and the consolidation of 1777, was to divide the residue of the fund of £480,000 a year with the lenders of 1767. This debt the worthy Chairman, who sits opposite to me, contends to be three millions sterling. Lord Macartney's account of 1781 states it to be, at that period, £1,200,000. The first account of the Court of Directors makes it £900,000. This, like the private debt, being without any solid existence, is incapable of any distinct limits. Whatever its amount or its validity may be, one thing is clear, it is of the nature and quality of a public debt. In that light nothing is provided for it, but an eventual surplus to be divided with one class of the private demands, after satisfying the two first classes. Never was a more shameful postponing a public demand, which, by the reason of the thing, and the uniform practice of all nations, supersedes every private claim. Those who gave this preference to private claims, consider the Company's as a lawful demand; else, why did they pretend to provide for it? On their own principles they are condemned.

"But I, Sir, who profess to speak to your understanding and to your conscience, and to brush away from this business all false colours, all false appellations, as well as false facts, do positively deny that the Carnatic owes a shilling to the Company, whatever the Company may be indebted to that undone country. It owes nothing to the Company, for this plain and simple reason—the territory charged with the debt is their own. To say that their revenues fall short, and owe them money, is to say they are in debt to themselves, which is only talking nonsense. The fact is, that by the invasion of an enemy, and the ruin of the country, the Company, either in its own name, or in the names of the Nabob of Arcot and Rajah of Tanjore, has lost for several years what it might have looked to receive from its own estate. If men were allowed to credit themselves upon such principles, any one might soon grow rich by this mode of accounting. A flood comes down upon a man's estate in the Bedford Level of £1,000 a year, and drowns his rents for ten years. The Chancellor would put that man into the hands of a trustee, who would gravely make up his books, and for this loss credit himself in his account for a debt due to him of £10,000. It is, however, on this principle the Company makes up its demands on the Carnatic. In peace they go the full length, and indeed more than the full length, of what the people can bear for current establishments; then they are absurd enough to consolidate all

the calamities of war into debts; to metamorphose the devastations of the country into demands upon its future production. What is this but to avow a resolution utterly to destroy their own country, and to force the people to pay for their sufferings, to a Government which has proved unable to protect either the share of the husbandman or their own? In every lease of a farm, the invasion of an enemy, instead of forming a demand for arrear, is a release of rent; nor for that release is it at all necessary to show that the invasion has left nothing to the occupier of the soil; though, in the present case, it would be too easy to prove that melancholy fact.* I therefore applauded my right honourable friend, who, when he canvassed the Company's accounts, as a preliminary to a bill that ought not to stand on falsehood of any kind, fixed his discerning eye, and his deciding hand, on these debts of the Company, from the Nabob of Arcot and the Rajah of Tanjore, and at one stroke expunged them all, as utterly irrecoverable; he might have added, as utterly unfounded. On these grounds I do not blame the arrangement this day in question, as a preference given to the debt of individuals over the Company's debt. In my eye it is no more than the preference of a fiction over a chimera; but I blame the preference given to those fictitious private debts over the standing defence and the standing Government. It is there the public is robbed. It is robbed in its army; it is robbed in its civil administration; it is robbed in its credit; it is robbed in its investment, which forms the commercial connexion between that country and Europe. There is the robbery.

"But my principal objection lies a good deal deeper. That debt to the Company is the pretext under which all the other debts lurk and cover themselves. That debt forms the foul putrid mucus, in which are engendered the whole brood of creeping ascarides, all the endless involutions, the eternal knot, added to a knot of those inexpugnable tape-worms which devour the nutriment, and eat up the bowels of India. It is necessary, Sir, you should recollect two things: first, that the Nabob's debt to the Company carries no interest. In the next place you will observe, that whenever the Company has occasion to borrow, she has always commanded whatever she thought fit at eight per cent. Carrying in your mind these two facts, attend to the process with regard to the public and private debt, and with what little appearance of decency they play into each other's hands a game of utter perdition to the unhappy natives of India. The Nabob falls into an arrear to the Company. The Presidency presses for payment: the Nabob's answer is, I have no money. Good! But there are soucars who will supply you on the mortgage of your territories. Then steps forward some Paul Benfield, and from his grateful compassion to the Nabob, and his filial regard to the Company, he unlocks the treasures of his virtuous industry; and for a consideration of 24 or 36 per

* "It is certain that the incursion of a few of Hyder's horse into the Jaghire, in 1767, cost the Company upwards of 27,000 pagodas, in allowances for damages."—Consultations, February 11, 1771.

cent. on a mortgage of the territorial revenue, becomes security to the Company for the Nabob's arrear.

"All this intermediate usury thus becomes sanctified by the ultimate view to the Company's payment. In this case, would not a plain man ask this plain question of the Company: If you know that the Nabob must annually mortgage his territories to your servants to pay his annual arrear to you, why is not the assignment or mortgage made directly to the Company itself? By this simple, obvious operation, the Company would be relieved and the debt paid, without the charge of a shilling interest to that prince. But if that course should be thought too indulgent, why do they not take that assignment with such interest to themselves as they pay to others, that is, eight per cent.? Or, if it were thought more advisable (why it should, I know not) that he must borrow, why do not the Company lend their own credit to the Nabob for their own payment? That credit would not be weakened by the collateral security of his territorial mortgage. The money might still be had at eight per cent. Instead of any of these honest and obvious methods, the Company has for years kept up a show of disinterestedness and moderation, by suffering a debt to accumulate to them from the country powers without any interest at all; and at the same time have seen before their eyes, on a pretext of borrowing to pay that debt, the revenues of the country charged with a usury of 20, 24, 36, and even 48 per cent., with compound interest, for the benefit of their servants. All this time they know, that, by having a debt subsisting without any interest, which is to be paid by contracting a debt on the highest interest, they manifestly render it necessary to the Nabob of Arcot to give the private demand a preference to the public; and by binding him and their servants together in a common cause, they enable him to form a party to the utter ruin of their own authority and their own affairs. Thus their false moderation and their affected purity, by the natural operation of everything false and everything affected, becomes pander and bawd to the unbridled debauchery and licentious lewdness of usury and extortion.

"In consequence of this double game, all the territorial revenues have, at one time or other, been covered by those locusts, the English soucars. Not one single foot of the Carnatic has escaped them; a territory as large as England. During these operations, what a scene has that country presented!* The usurious European assignee supersedes the Nabob's native farmer of the

* For some part of these usurious transactions, see Consultation, 28th January, 1781; and for the Nabob's excusing these oppressions on account of these debts, Consultation, 26th Nov. 1770. "Still I undertook, first, the payment of the money belonging to the Company, who are my kind friends, and by borrowing, and mortgaging my jewels, &c., by taking from every one of my servants, in proportion to their circumstances, by fresh severities also on my country, notwithstanding its distressed state, as you know."—The Board's remark is as follows: after controverting some of the facts, they say, "That his countries are oppressed is most certain, but not from real necessity; his debts, indeed, have afforded him a constant pretence for using severities and cruel oppressions."

revenue; the farmer flies to the Nabob's presence to claim his bargain; whilst his servants murmur for wages and his soldiers mutiny for pay. The mortgage to the European assignee is then resumed, and the native farmer replaced; replaced, again to be removed on the new clamour of the European assignee.* Every man of rank and landed fortune being long since extinguished, the remaining miserable last cultivator, who grows to the soil, after having his back scored by the farmer, has it again flayed by the whip of the assignee, and is thus by a ravenous, because a short-lived succession of claimants, lashed from oppressor to oppressor, whilst a single drop of blood is left as the means of extorting a single grain of corn. Do not think I paint. Far, very far from it; I do not reach the fact, nor approach to it. Men of respectable condition, men equal to your substantial English yeomen, are daily tied up and scourged, to answer the multiplied demands of various contending and contradictory titles, all issuing from one and the same source. Tyrannous exaction brings on servile concealment; and that again calls forth tyrannous coercion. They move in a circle, mutually producing and produced; till at length nothing of humanity is left in the government, no trace of integrity, spirit, or manliness in the people, who drag out a precarious and degraded existence under this system of outrage upon human nature. Such is the effect of the establishment of a debt to the Company, as it has hitherto been managed, and as it ever will remain, until ideas are adopted totally different from those which prevail at this time.

"Your worthy Ministers, supporting what they are obliged to condemn, have thought fit to renew the Company's old order against contracting private debts in future. They begin by rewarding the violation of the ancient law; and then they gravely re-enact provisions, of which they have given bounties for the breach. This inconsistency has been well exposed by my right honourable friend who made this motion. But what will you say to their having gone the length of giving positive directions for the contracting the debt which they positively forbid? I will explain myself. They order the Nabob, out of the revenues of the Carnatic, to allot £480,000 a year, as a fund for the debts before us. For the punctual payment of this annuity, they order him to give soucar security. When a soucar, that is, a money-dealer, becomes security for any native prince, the course is, for the native prince to counter-secure the money-dealer, by making over to him in mortgage a portion of his territory, equal to the sum annually to be paid, with an interest of at least 24 per cent. The point fit for the House to know is, who are these soucars, to whom this security on the revenues in favour of the Nabob's creditors is to be given? The majority of the House, unaccustomed to these transactions, will hear with astonishment that these soucars are no other than the creditors themselves. The Minister, not content with authorising these

* See Consultation, 28th January, 1781, where it is asserted, and not denied, that the Nabob's farmers of revenue seldom continue for three months together. From this the state of the country may be easily judged of.

transactions in a manner and to an extent unhoped for by the rapacious expectations of usury itself, loads the broken back of the Indian revenues, in favour of his worthy friends the soucars, with an additional 24 per cent. for being security to themselves for their own claims; for condescending to take the country in mortgage, to pay to themselves the fruits of their own extortions.

"The interest to be paid for this security, according to the most moderate strain of soucar demand, comes to £118,000 a year, which, added to the £480,000 on which it is to accrue, will make the whole charge on account of these debts on the Carnatic revenues amount to £598,000 a year, as much as even a long peace will enable those revenues to produce. Can any one reflect for a moment on all those claims of debt, which the Minister exhausts himself in contrivances to augment with new usuries, without lifting up his hands and eyes in astonishment of the impudence, both of the claim and of the adjudication? Services of some kind or other these servants of the Company must have done, so great and eminent, that the Chancellor of the Exchequer cannot think that all they have brought home is half enough. He halloos after them, 'Gentlemen, you have forgot a large packet behind you, in your hurry; you have not sufficiently recovered yourselves; you ought to have, and you shall have, interest upon interest, upon a prohibited debt that is made up of interest upon interest. Even this is too little. I have thought of another character for you, by which you may add something to your gains; you shall be security to yourselves; and hence will arise a new usury, which shall efface the memory of all the usuries suggested to you by your own dull inventions.'

"I have done with the arrangement relative to the Carnatic. After this it is to little purpose to observe on what the Ministers have done to Tanjore. Your Ministers have not observed even form and ceremony in their outrageous and insulting robbery of that country, whose only crime has been, its early and constant adherence to the power of this, and the suffering of an uniform pillage in consequence of it. The debt of the Company from the Rajah of Tanjore, is just of the same stuff with that of the Nabob of Arcot.

"The subsidy from Tanjore, on the arrear of which this pretended debt (if any there be) has accrued to the Company, is not, like that paid by the Nabob of Arcot, a compensation for vast countries obtained, augmented, and preserved for him; not the price of pillaged treasuries, ransacked houses, and plundered territories. It is a large grant, from a small kingdom not obtained by our arms; robbed, not protected by our power; a grant for which no equivalent was ever given, or pretended to be given. The right honourable gentleman, however, bears witness in his reports to the punctuality of the payments of this grant of bounty, or, if you please, of fear. It amounts to £160,000 sterling net annual subsidy. He bears witness to a further grant of a town and port, with an annexed district of £30,000 a-year, surrendered to the Company since the first donation. He has not borne witness, but the fact is, (he will not deny it,) that in the midst of war, and during the ruin

and desolation of a considerable part of his territories, this prince made many very large payments. Notwithstanding these merits and services, the first regulation of Ministry is to force from him a territory of an extent which they have not yet thought proper to ascertain, for a military peace-establishment, the particulars of which they have not yet been pleased to settle.

"The next part of their arrangement is with regard to war. As confessedly this Prince had no share in stirring up any of the former wars, so all future wars are completely out of his power; for he has no troops whatever, and is under a stipulation not so much as to correspond with any foreign state, except through the Company. Yet, in case the Company's servants should be again involved in war, or should think proper again to provoke any enemy, as in times past they have wantonly provoked all India, he is to be subjected to a new penalty. To what penalty?—Why, to no less than the confiscation of all his revenues. But this is to end with the war, and they are to be faithfully returned? Oh! no; nothing like it. The country is to remain under confiscation until all the debt which the Company shall think fit to incur in such war shall be discharged; that is to say, for ever. His sole comfort is to find his old enemy, the Nabob of Arcot, placed in the very same condition.

"The revenues of that miserable country were, before the invasion of Hyder, reduced to a gross annual receipt of £360,000. From this receipt the subsidy I have just stated is taken. This again, by payments in advance, by extorting deposits of additional sums to a vast amount for the benefit of their soucars, and by an endless variety of other extortions, public and private, is loaded with a debt, the amount of which I never could ascertain, but which is large undoubtedly, generating an usury the most completely ruinous that probably was ever heard of; that is, 48 per cent., payable monthly, with compound interest.

"Such is the state to which the Company's servants have reduced that country. Now come the reformers, restorers, and comforters of India. What have they done? In addition to all these tyrannous exactions with all these ruinous debts in their train, looking to one side of an agreement whilst they wilfully shut their eyes to the other, they withdraw from Tanjore all the benefits of the treaty of 1762, and they subject that nation to a perpetual tribute of £40,000 a-year to the Nabob of Arcot; a tribute never due, or pretended to be due to him, even when he appeared to be something; a tribute, as things now stand, not to a real potentate, but to a shadow, a dream, an incubus of oppression. After the Company has accepted in subsidy, in grant of territory, in remission of rent, as a compensation for their own protection, at least two hundred thousand pounds a-year, without discounting a shilling for that receipt, the ministers condemn this harassed nation to be tributary to a person who is himself, by their own arrangement, deprived of the right of war or peace; deprived of the power of the sword; forbidden to keep up a single regiment of soldiers; and is therefore wholly disabled from all protection of the country which is the object of the pre-

tended tribute. Tribute hangs on the sword. It is an incident inseparable from real sovereign power. In the present case to suppose its existence, is as absurd as it is cruel and oppressive. And here, Mr. Speaker, you have a clear exemplification of the use of those false names, and false colours, which the gentlemen who have lately taken possession of India choose to lay on for the purpose of disguising their plan of oppression. The Nabob of Arcot, and Rajah of Tanjore, have, in truth and substance, no more than a merely civil authority, held in the most entire dependence on the Company. The Nabob, without military, without federal capacity, is extinguished as a potentate; but then he is carefully kept alive as an independent and sovereign power, for the purpose of rapine and extortion; for the purpose of perpetuating the old intrigues, animosities, usuries, and corruptions.

"It was not enough that this mockery of tribute was to be continued without the correspondent protection, or any of the stipulated equivalents, but ten years of arrear, to the amount of £400,000 sterling, is added to all the debts to the Company, and to individuals, in order to create a new debt, to be paid (if at all possible to be paid in whole or in part) only by new usuries; and all this for the Nabob of Arcot, or rather for Mr. Benfield, and the corps of the Nabob's creditors and their soucars. Thus these miserable Indian Princes are continued in their seats, for no other purpose than to render them in the first instance objects of every species of extortion; and in the second, to force them to become, for the sake of a momentary shadow of reduced authority, a sort of subordinate tyrants, the ruin and calamity, not the fathers and cherishers, of their people.

"But take this tribute only as a mere charge (without title, cause, or equivalent) on this people; what one step has been taken to furnish grounds for a just calculation and estimate of the proportion of the burthen and the ability? None; not an attempt at it. They do not adapt the burthen to the strength; but they estimate the strength of the bearers by the burthen they impose. Then what care is taken to leave a fund sufficient to the future reproduction of the revenues that are to bear all these loads? Every one, but tolerably conversant in Indian affairs, must know that the existence of this little kingdom depends on its control over the river Cavery.* The benefits of heaven to any community ought never to be connected with political arrangements, or made to depend on the personal conduct of princes; in which the mistake, or error, or neglect, or distress, or passion of a moment on either side, may bring famine on millions, and ruin an innocent nation perhaps for ages. The means of the subsistence of mankind should be as immutable as the laws of nature, let power and dominion take what course they may. Observe what has been done with regard to this important

* The Cavery rises in the Western Ghauts, near the coast of Malabar, and flows for about 450 miles. Its southern branches, by means of canals and embankments, are employed in fertilizing the vast rice plains of Tanjore; and the coming down of the floods from the mountains is celebrated with great festivities by the inhabitants of that country.

concern. The use of this river is indeed at length given to the Rajah, and a power provided for its enjoyment at his own charge; but the means of furnishing that charge (and a mighty one it is) are wholly cut off. This use of the water, which ought to have no more connexion than clouds, and rains, and sunshine, with the politics of the Rajah, the Nabob, or the Company, is expressly contrived as a means of enforcing demands and arrears of tribute. This horrid and unnatural instrument of extortion had been a distinguishing feature in the enormities of the Carnatic politics, that loudly called for reformation. But the food of a whole people is by the reformers of India conditioned on payments from its Prince, at a moment that he is overpowered with a swarm of their demands, without regard to the ability of either Prince or people. In fine, by opening an avenue to the irruption of the Nabob of Arcot's creditors and soucars, whom every man who did not fall in love with oppression and corruption, on an experience of the calamities they produced, would have raised wall before wall, and mound before mound, to keep from a possibility of entrance, a more destructive enemy than Hyder Ali is introduced into that kingdom. By this part of their arrangement, in which they establish a debt to the Nabob of Arcot, in effect and substance, they deliver over Tanjore, bound hand and foot, to Paul Benfield, the old betrayer, insulter, oppressor, and scourge of a country, which has for years been an object of an unremitted, but unhappily an unequal struggle, between the bounties of Providence to renovate, and the wickedness of mankind to destroy.

"The right honourable gentleman (Mr. Dundas) talks of his fairness in determining the territorial dispute between the Nabob of Arcot and the Prince of that country, when he superseded the determination of the Directors, in whom the law had vested the decision of that controversy. He is in this just as feeble as he is in every other part. But it is not necessary to say a word in refutation of any part of his argument. The mode of the proceeding sufficiently speaks the spirit of it. It is enough to fix his character as a judge, that he never heard the Directors in defence of their adjudication, nor either of the parties in support of their respective claims. It is sufficient for me, that he takes from the Rajah of Tanjore by this pretended adjudication, or rather from his unhappy subjects, £40,000 a-year of his and their revenue, and leaves upon his and their shoulders all the charges that can be made on the part of the Nabob, on the part of his creditors, and on the part of the Company, without so much as hearing him as to right or to ability. But what principally induces me to leave the affair of the territorial dispute between the Nabob and the Rajah to another day, is this, that both the parties being stripped of their all, it little signifies under which of their names the unhappy undone people are delivered over to the merciless soucars, the allies of that right honourable gentleman, and the Chancellor of the Exchequer. In them ends the account of this long dispute of the Nabob of Arcot, and the Rajah of Tanjore.

"The right honourable gentleman is of opinion, that his judgment in this

case can be censured by none but those who seem to act as if they were paid agents to one of the parties. What does he think of his Court of Directors? If they are paid by either of the parties, by which of them does he think they are paid? He knows that their decision has been directly contrary to his. Shall I believe that it does not enter into his heart to conceive that any person can steadily and actively interest himself in the protection of the injured and oppressed, without being well paid for his service? I have taken notice of this sort of discourse some days ago, so far as it may be supposed to relate to me. I then contented myself, as I shall now do, with giving it a cold, though a very direct contradiction. Thus much I do from respect to truth. If I did more, it might be supposed by my anxiety to clear myself, that I had imbibed the ideas which, for obvious reasons, the right honourable gentleman wishes to have received concerning all attempts to plead the cause of the natives of India, as if it were a disreputable employment. If he had not forgot, in his present occupation, every principle which ought to have guided him, and I hope did guide him, in his late profession, he would have known, that he who takes a fee for pleading the cause of distress against power, and manfully performs the duty he has assumed, receives an honourable recompence for a virtuous service. But if the right honourable gentleman will have no regard to fact in his insinuations, or to reason in his opinions, I wish him at least to consider, that if taking an earnest part with regard to the oppressions exercised in India, and with regard to this most oppressive case of Tanjore in particular, can ground a presumption of interested motives, he is himself the most mercenary man I know. His conduct, indeed, is such that he is on all occasions the standing testimony against himself. He it was that first called to that case the attention of the House: the reports of his own Committee* are ample and affecting on that subject; and as many of us as have escaped his massacre, must remember the very pathetic picture he made of the sufferings of the Tanjore country, on the day when he moved the unwieldy code of his Indian resolutions. Has he not stated over and over again in his reports, the ill treatment of the Rajah of Tanjore, (a branch of the royal house of the Mahrattas, every injury to whom the Mahrattas felt as offered to themselves,) as a main cause of the alienation of that people from the British power? And does he now think, that to betray his principles, to contradict his declarations, and to become himself an active instrument in those oppressions which he had so tragically lamented, is the way to clear himself of having been actuated by a pecuniary interest, at the time when he chose to appear full of tenderness to that ruined nation?

"The right honourable gentleman is fond of parading on the motives of others, and on his own. As to himself, he despises the imputations of those who suppose that anything corrupt could influence him in this his unexampled liberality of the public treasure. I do not know that I am obliged to

* See note, *ante*, p. 361.

speak to the motives of Ministry, in the arrangements they have made of the pretended debts of Arcot and Tanjore. If I prove fraud and collusion with regard to public money on those right honourable gentlemen, I am not obliged to assign their motives; because no good motives can be pleaded in favour of their conduct. Upon that case I stand; we are at issue; and I desire to go to trial. This, I am sure, is not loose railing, or mean insinuation, according to their low and degenerate fashion, when they make attacks on the measures of their adversaries. It is a regular and juridical course; and, unless I choose it, nothing can compel me to go further.

"But since these unhappy gentlemen have dared to hold a lofty tone about their motives, and affect to despise suspicion, instead of being careful not to give cause for it, I shall beg leave to lay before you some general observations on what, I conceive, was their duty in so delicate a business. If I were worthy to suggest any line of prudence to that right honourable gentleman, I would tell him, that the way to avoid suspicion in the settlement of pecuniary transactions, in which great frauds have been very strongly presumed, is, to attend to these few plain principles:—First, to hear all parties equally, and not the managers for the suspected claimants only;—not to proceed in the dark; but to act with as much publicity as possible;—not to precipitate decision—to be religious in following the rules prescribed in the commission under which we act; and, lastly, and above all, not to be fond of straining constructions, to force a jurisdiction, and to draw to ourselves the management of a trust in its nature invidious and obnoxious to suspicion, where the plainest letter of the law does not compel it. If these few plain rules are observed, no corruption ought to be suspected; if any of them are violated, suspicion will attach in proportion. If all of them are violated, a corrupt motive of some kind or other will not only be suspected, but must be violently presumed.

"The persons in whose favour all these rules have been violated, and the conduct of Ministers towards them, will naturally call for your consideration, and will serve to lead you through a series and combination of facts and characters, if I do not mistake, into the very inmost recesses of this mysterious business. You will then be in possession of all the materials on which the principles of sound jurisprudence will found, or will reject the presumption of corrupt motives; or, if such motives are indicated, will point out to you of what particular nature the corruption is.

"Our wonderful Minister, as you all know, formed a new plan, a plan *insigne recens indictum ore alio*, a plan for supporting the freedom of our constitution by court intrigues, and for removing its corruptions by Indian delinquency. To carry that bold paradoxical design into execution, sufficient funds and apt instruments became necessary. You are perfectly sensible that a Parliamentary reform occupies his thoughts day and night, as an essential member in this extraordinary project. In his anxious researches upon this subject, natural instinct, as well as sound policy, would direct his eyes, and settle his choice on Paul Benfield. Paul Benfield is the grand

Parliamentary reformer, the reformer to whom the whole choir of reformers bow, and to whom even the right honourable gentleman himself must yield the palm: for what region in the empire, what city, what borough, what county, what tribunal in this kingdom, is not full of his labours? Others have been only speculators; he is the grand practical reformer; and whilst the Chancellor of the Exchequer pledges in vain the man and the minister, to increase the provincial members, Mr. Benfield has auspiciously and practically begun it. Leaving far behind him even Lord Camelford's generous design of bestowing Old Sarum on the Bank of England, Mr. Benfield has thrown in the borough of Cricklade to reinforce the county representation. Not content with this, in order to station a steady phalanx for all future reforms, this public-spirited usurer, amidst his charitable toils for the relief of India, did not forget the poor rotten constitution of his native country. For her, he did not disdain to stoop to the trade of a wholesale upholsterer for this House, to furnish it, not with the faded tapestry figures of antiquated merit, such as decorate, and may reproach some other houses, but with real, solid, living patterns of true modern virtue. Paul Benfield made (reckoning himself) no fewer than eight members in the last Parliament. What copious streams of pure blood must he not have transfused into the veins of the present!

"But what is even more striking than the real services of the new-imported patriot is his modesty. As soon as he had conferred this benefit on the constitution, he withdrew himself from our applause. He conceived that the duties of a member of Parliament (which, with the elect faithful, the true believers, the *Islam* of parliamentary reform, are of little or no merit, perhaps not much better than specious sins), might be as well attended to in India as in England, and the means of reformation to Parliament itself be far better provided. Mr. Benfield was, therefore, no sooner elected than he set off for Madras, and defrauded the longing eyes of Parliament. We have never enjoyed in this House the luxury of beholding that minion of the human race, and contemplating that visage, which has so long reflected the happiness of nations.

"It was, therefore, not possible for the Minister to consult personally with this great man. What, then, was he to do? Through a sagacity that never failed him in these pursuits, he found out in Mr. Benfield's representative his exact resemblance. A specific attraction by which he gravitates towards all such characters, soon brought our Minister into a close connexion with Mr. Benfield's agent and attorney; that is, with the grand contractor (whom I name to honour) Mr. Richard Atkinson; a name that will be well remembered as long as the records of this House, as long as the records of the British treasury, as long as the monumental debt of England shall endure.

"This gentleman, Sir, acts as attorney for Mr. Paul Benfield. Every one who hears me is well acquainted with the sacred friendship, and the steady mutual attachment that subsists between him and the present Minister. As many members as chose to attend in the first session of this Parliament, can best

tell their own feelings at the scenes which were then acted. How much that honourable gentleman was consulted in the original frame and fabric of the bill, commonly called Mr. Pitt's India bill, is matter only of conjecture; though by no means difficult to divine. But the public was an indignant witness of the ostentation with which the measure was made his own, and the authority with which he brought up clause after clause, to stuff and fatten the rankness of that corrupt act. As fast as the clauses were brought up to the table they were accepted. No hesitation; no discussion. They were received by the new Minister, not with approbation, but with implicit submission. The reformation may be estimated by seeing who was the reformer. Paul Benfield's associate and agent was held up to the world as the legislator of Hindostan. But it was necessary to authenticate the coalition between the men of intrigue in India and the minister of intrigue in England by a studied display of the power of this their connecting link. Every trust, every honour, every distinction, was to be heaped upon him. He was at once made a Director of the India Company; made an alderman of London, and to be made, if Ministry could prevail (and I am sorry to say how near, how very near, they were prevailing), representative of the capital of this kingdom. But, to secure his services against all risk, he was brought in for a ministerial borough. On his part, he was not wanting in zeal for the common cause. His advertisements show his motives, and the merits upon which he stood. For your Minister, this worn-out veteran submitted to enter into the dusty field of the London contest; and you all remember that in the same virtuous cause he submitted to keep a sort of public office or counting-house, where the whole business of the last general election was managed. It was openly managed by the direct agent and attorney of Benfield. It was managed upon India principles, and for an Indian interest. This was the golden cup of abominations; this the chalice of the fornications of rapine, usury, and oppression, which was held out by the gorgeous eastern harlot; which so many of the people, so many of the nobles of this land had drained to the very dregs. Do you think that no reckoning was to follow this lewd debauch? that no payment was to be demanded for this riot of public drunkenness and national prostitution? Here! you have it here before you. The principal of the grand election manager must be indemnified; accordingly, the claims of Benfield and his crew must be put above all inquiry.

"For several years Benfield appeared as the chief proprietor, as well as the chief agent, director, and comptroller of this system of debt. The worthy Chairman of the Company has stated the claims of this single gentleman on the Nabob of Arcot as amounting to £500,000.* Possibly at the time of the Chairman's statement they might have been as high: £800,000 had been mentioned some time before; and according to the practice of shifting the names of creditors in these transactions, and reducing or raising the debt itself at pleasure, I think it not impossible that, at one period, the

* Mr. Smith's protest.

name of Benfield might have stood before those frightful figures. But my best information goes to fix his share no higher than £400,000. By the scheme of the present Ministry for adding to the principal 12 per cent. from the year 1777 to the year 1781, £400,000, that smallest of the sums ever mentioned for Mr. Benfield, will form a capital of £592,000 at 6 per cent. Thus, besides the arrears of three years, amounting to £106,500 (which, as fast as received, may be legally lent out at 12 per cent.), Benfield has received by the ministerial grant before you, an annuity of £35,520 a year, charged on the public revenues.

"Our mirror of ministers of finance did not think this enough for the services of such a friend as Benfield. He found that Lord Macartney, in order to frighten the Court of Directors from the project of obliging the Nabob to give soucar security for his debt, assured them that, if they should take that step, Benfield would infallibly be the soucar; and would thereby become the entire master of the Carnatic. What Lord Macartney thought sufficient to deter the very agents and partakers with Benfield in his iniquities, was the inducement to the two right honourable gentlemen to order this very soucar security to be given, and to recall Benfield to the city of Madras, from the sort of decent exile, into which he had been relegated by Lord Macartney. You must therefore consider Benfield as soucar security for £480,000 a year, which at 24 per cent. (supposing him contented with that profit) will, with the interest of his old debt, produce an annual income of £149,520 a year.

"Here is a specimen of the new and pure aristocracy created by the right honourable gentleman (Mr. Pitt) as the support of the crown and the constitution, against the old, corrupt, refractory, natural interests of this kingdom; and this is the grand counterpoise against all odious coalitions of these interests. A single Benfield outweighs them all; a criminal, who long since ought to have fattened the region-kites with his offal, is, by his Majesty's Ministers, enthroned in the government of a great kingdom, and enfeoffed with an estate which, in the comparison, effaces the splendour of all the nobility of Europe. To bring a little more distinctly into view the true secret of this dark transaction, I beg you particularly to advert to the circumstances which I am going to place before you. The general corps of creditors, as well as Mr. Benfield himself, not looking well into futurity, nor presaging the Minister of this day, thought it not expedient for their common interest, that such a name as his should stand at the head of their list. It was, therefore, agreed amongst them, that Mr. Benfield should disappear by making over his debt to Messrs. Taylor, Majendie, and Call, and should in return be secured by their bond. The debt thus exonerated of so great a weight of its odium, and otherwise reduced from its alarming bulk, the agents thought they might venture to print a list of the creditors. This was done, for the first time, in the year 1783, during the Duke of Portland's administration. In this list the name of Benfield was not to be seen. To this strong negative testimony was added the further testimony of the Nabob of Arcot. That prince (or rather Mr. Benfield for him) writes to the Court of Directors a

letter full of complaints and accusations against Lord Macartney, conveyed in such terms as were natural for one of Mr. Benfield's habits and education to employ. Amongst the rest he is made to complain of his lordship's endeavouring to prevent an intercourse of politeness and sentiment between him and Mr. Benfield; and, to aggravate the affront, he expressly declares Mr. Benfield's visits to be only on account of respect and of gratitude, as no pecuniary transaction subsisted between them.

"Such, for a considerable space of time, was the outward form of the loan of 1777, in which Mr. Benfield had no sort of concern. At length, intelligence arrived at Madras, that this debt, which had always been renounced by the Court of Directors, was rather like to become the subject of something more like a criminal inquiry, than of any patronage or sanction from Parliament. Every ship brought accounts, one stronger than the other, of the prevalence of the determined enemies of the Indian system. The public revenues became an object desperate to the hopes of Mr. Benfield; he, therefore, resolved to fall upon his associates, and, in violation of that faith which subsists among those who have abandoned all other, commences a suit in the Mayor's Court against Taylor, Majendie, and Call, for the bond given to him when he agreed to disappear for his own benefit, as well as that of the common concern. The assignees of his debt, who little expected the springing of this mine, even from such an engineer as Mr. Benfield, after recovering their first alarm, thought it best to take ground on the real state of the transaction. They divulged the whole mystery, and were prepared to plead that they had never received from Mr. Benfield any other consideration for the bond, than a transfer, in trust for himself, of his demand on the Nabob of Arcot. An universal indignation arose against the perfidy of Mr. Benfield's proceeding; the event of the suit was looked upon as so certain, that Benfield was compelled to retreat as precipitately as he had advanced boldly; he gave up his bond, and was reinstated in his original demand, to wait the fortune of other claimants. At that time, and at Madras, this hope was dull indeed; but at home another scene was preparing.

"It was long before any public account of this discovery at Madras had arrived in England, that the present Minister and his Board of Control thought fit to determine on the debt of 1777. The recorded proceedings at this time knew nothing of any debt to Benfield. There was his own testimony; there was the testimony of the list; there was the testimony of the Nabob of Arcot against it. Yet such was the Minister's feeling of the true secret of this transaction, that they thought proper, in the teeth of all these testimonies, to give him license to return to Madras. Here the Ministers were under some embarrassment. Confounded between their resolution of rewarding the good services of Benfield's friends and associates in England, and the shame of sending that notorious incendiary to the Court of the Nabob of Arcot, to renew his intrigues against the British government, at the time they authorise his return, they forbid him, under the severest penalties, from any conversation with the Nabob or his ministers; that

is, they forbid his communication with the very person, on account of his dealings with whom they permit his return to that city. To overtop this contradiction, there is not a word restraining him from the freest intercourse with the Nabob's second son, the real author of all that is done in the Nabob's name; who, in conjunction with this very Benfield, has acquired an absolute dominion over that unhappy man, is able to persuade him to put his signature to whatever paper they please, and often without any communication of the contents. This management was detailed to them at length, full by Lord Macartney, and they cannot pretend ignorance of it.

"I believe, after this exposure of facts, no man can entertain a doubt of the collusion of Ministers with the corrupt interest of the delinquents in India. Whenever those in authority provide for the interest of any person, on the real but concealed state of his affairs, without regard to his avowed public and ostensible pretences, it must be presumed that they are in confederacy with him, because they act for him on the same fraudulent principles on which he acts for himself. It is plain that the Ministers were fully apprised of Benfield's real situation, which he had used means to conceal, whilst concealment answered his purposes. They were, or the person on whom they relied was, of the Cabinet Council of Benfield, in the very depth of all his mysteries. An honest magistrate compels men to abide by one story. An equitable judge would not hear of the claim of a man who had himself thought proper to renounce it. With such a judge his shuffling and prevarication would have damned his claims; such a judge never would have known, but in order to animadvert upon, proceedings of that character.

"I have thus laid before you, Mr. Speaker, I think with sufficient clearness, the connexion of the Ministers with Mr. Atkinson at the general election; I have laid open to you the connexion of Atkinson with Benfield; I have shown Benfield's employment of his wealth, in creating a Parliamentary interest to procure a Ministerial protection; I have set before your eyes his large concern in the debt, his practices to hide that concern from the public eye, and the liberal protection which he has received from the Minister. If this chain of circumstances does not lead you necessarily to conclude that the Minister has paid to the avarice of Benfield the services done by Benfield's connexions to his ambition, I do not know anything short of the confession of the party that can persuade you of his guilt. Clandestine and collusive practice can only be traced by combination and comparison of circumstances. To reject such combination and comparison is to reject the only means of detecting fraud; it is, indeed, to give it a patent and free license to cheat with impunity.

"I confine myself to the connexion of Ministers, mediately or immediately, with only two persons concerned in this debt. How many others, who support their power and greatness within and without doors, are concerned originally, or by transfers of these debts, must be left to general opinion. I refer to the reports of the Select Committee for the proceedings of some of the agents in these affairs, and their attempts, at least, to furnish Ministers

with the means of buying general courts, and even whole Parliaments, in the gross.

"I know that the Ministers will think it little less than acquittal, that they are not charged with having taken to themselves some part of the money of which they have made so liberal a donation to their partisans, though the charge may be indisputably fixed upon the corruption of their politics. For my part, I follow their crimes to that point to which legal presumptions and natural indications lead me, without considering what species of evil motive tends most to aggravate or to extenuate the guilt of their conduct. But if I am to speak my private sentiments, I think that, in a thousand cases for one, it would be far less mischievous to the public, and full as little dishonourable to themselves, to be polluted with direct bribery, than thus to become a standing auxiliary to the oppression, usury, and peculation of multitudes, in order to obtain a corrupt support to their power. It is by bribing, not so often by being bribed, that wicked politicians bring ruin on mankind. Avarice is a rival to the pursuits of many. It finds a multitude of checks, and many opposers, in every walk of life. But the objects of ambition are for the few; and every person who aims at indirect profit, and, therefore, wants other protection than innocence and law, instead of its rival, becomes its instrument. There is a natural allegiance and fealty due to this domineering paramount evil, from all the vassal vices, which acknowledge its superiority, and readily militate under its banners; and it is under that discipline alone that avarice is able to spread to any considerable extent, or to render itself a general public mischief. It is, therefore, no apology for Ministers, that they have not been bought by the East India delinquents, but that they have only formed an alliance with them for screening each other from justice, according to the exigence of their several necessities. That they have done so is evident; and the junction of the power of office in England, with the abuse of authority in the East, has not only prevented even the appearance of redress to the grievances of India, but I wish it may not be found to have dulled, if not extinguished, the honour, the candour, the generosity, the good-nature, which used formerly to characterise the people of England. I confess, I wish that some more feeling than I have yet observed for the sufferings of our fellow-creatures and fellow-subjects in that oppressed part of the world, had manifested itself in any one quarter of the kingdom, or in any one large description of men.

"That these oppressions exist, is a fact no more denied, than it is resented as it ought to be. Much evil has been done in India under the British authority. What has been done to redress it? We are no longer surprised at anything. We are above the unlearned and vulgar passion of admiration. But it will astonish posterity, when they read our opinions in our actions, that after years of inquiry, we have found out that the sole grievance of India consisted in this, that the servants of the Company there had not profited enough of their opportunities, nor drained it sufficiently of its treasures; when they shall hear that the very first and only important act of a commission specially

named by Act of Parliament, is to charge, upon an undone country, in favour of a handful of men, in the humblest ranks of the public service, the enormous sum of perhaps four millions of sterling money.

"It is difficult for the most wise and upright government to correct the abuses of remote delegated power, productive of unmeasured wealth, and protected by the boldness and strength of the same ill-got riches. These abuses, full of their own wild native vigour, will grow and flourish under mere neglect. But where the supreme authority, not content with winking at the rapacity of its inferior instruments, is so shameless and corrupt as openly to give bounties and premiums for disobedience to its laws; when it will not trust to the activity of avarice in the pursuit of its own gains; when it secures public robbery by all the careful jealousy and attention with which it ought to protect property from such violence; the commonwealth then is become totally perverted from its purposes; neither God nor man will long endure it; nor will it long endure itself. In that case, there is an unnatural infection, a pestilential taint fermenting in the constitution of society, which fever and convulsions of some kind or other must throw off; or in which the vital powers, worsted in an unequal struggle, are pushed back upon themselves, and, by a reversal of their whole functions, fester to gangrene, to death; and, instead of what was but just now the delight and boast of the creation, there will be cast out in the face of the sun, a bloated, putrid, noisome carcase, full of stench and poison,—an offence, a horror, a lesson to the world.

"In my opinion, we ought not to wait for the fruitless instruction of calamity to inquire into the abuses which bring upon us ruin in the worst of its forms, in the loss of our fame and virtue. But the right honourable gentleman (Mr. Dundas) says, in answer to all the powerful arguments of my honourable friend, 'that this inquiry is of a delicate nature, and that the state will suffer detriment by the exposure of this transaction.' But it is exposed; it is perfectly known in every member, in every particle, and in every way, except that which may lead to a remedy. He knows that the papers of correspondence are printed, and that they are in every hand. He and delicacy are a rare and a singular coalition. He thinks, that to divulge our Indian politics may be highly dangerous. He! the mover! the chairman! the reporter of the Committee of Secresy! he that brought forth, in the utmost detail, in several vast printed folios, the most recondite parts of the politics, the military, the revenues of the British empire in India! With six great chopping bastards,* each as lusty as an infant Hercules, this delicate creature blushes at the sight of his new bridegroom,—assumes a virgin delicacy; or, to use a more fit, as well as a more poetic comparison, the person so squeamish, so timid, so trembling lest the winds of heaven should visit too roughly, is expanded to broad sunshine, exposed like the sow of imperial augury, lying in the mud with all the prodigies of her fertility about her, as evidence of her delicate amours—

* Six Reports of the Committee of Secresy.

'Triginta capitum fœtus enixa jacebit,
Alba, solo recubans, albi circum ubera nati.'*

"Whilst discovery of the misgovernment of others led to his own power, it was wise to inquire; it was safe to publish; there was then no delicacy; there was then no danger. But when his object is attained, and, in his imitation, he has outdone the crimes that he had reprobated in volumes of reports, and in sheets of bills of pains and penalties; then concealment becomes prudence; and it concerns the safety of the state, that we should not know, in a mode of Parliamentary cognizance, what all the world knows but too well, that is, in what manner he chooses to dispose of the public revenues to the creatures of his politics.

"The debate has been long, and as much so on my part, at least, as on the part of those who have spoken before me. But, long as it is, the more material half of the subject has hardly been touched on; that is, the corrupt and destructive system to which this debt has been rendered subservient, and which seems to be pursued with at least as much vigour and regularity as ever. If I considered your ease or my own, rather than the weight and importance of this question, I ought to make some apology to you, perhaps some apology to myself, for having detained your attention so long. I know on what ground I tread. This subject, at one time taken up with so much fervour and zeal, is no longer a favourite in this House. The House itself has undergone a great and signal revolution. To some the subject is strange and uncouth; to several harsh and distasteful; to the relics of the last Parliament it is a matter of fear and apprehension. It is natural for those who have seen their friends sink in the tornado, which raged during the late shift of the monsoon, and have hardly escaped on the planks of the general wreck, it is but too natural for them, as soon as they make the rocks and quicksands of their former disasters, to put about their new-built barks, and, as much as possible, to keep aloof from this perilous lee shore.

"But let us do what we please to put India from our thoughts, we can do nothing to separate it from our public interest and our national reputation. Our attempts to banish this importunate duty, will only make it return upon us again and again, and every time in a shape more unpleasant than the former. A government has been fabricated for that great province; the right honourable gentleman says, that, therefore, you ought not to examine into its conduct. Heavens! what an argument is this! We are not to examine into the conduct of the direction, because it is an old government; we are not to examine into this Board of Control, because it is a new one. Then we are only to examine into the conduct of those who have no conduct to account for. Unfortunately the basis of this new government has been laid on old condemned delinquents, and its superstructure is raised out of prosecutors turned into protectors. The event has been such as might be expected. But if it had been otherwise constituted; had it been constituted even as I wished,

* Virgil, Æn. iii., 391.

and as the mover of this question had planned, the better part of the proposed establishment was in the publicity of its proceedings; in its perpetual responsibility to Parliament. Without this check, what is our Government at home, even awed, as every European government is, by an audience formed of the other states of Europe, by the applause or condemnation of the discerning and critical company before which it acts? But if the scene on the other side of the globe, which tempts, invites, almost compels, to tyranny and rapine, be not inspected with the eye of a severe and unremitting vigilance, shame and destruction must ensue. For one, the worst event of this day, though it may deject, shall not break or subdue me. The call upon us is authoritative. Let who will shrink back, I shall be found at my post. Baffled, discountenanced, subdued, discredited, as the cause of justice and humanity is, it will be only the dearer to me. Whoever, therefore, shall at any time bring before you anything towards the relief of our distressed fellow-citizens in India, and towards a subversion of the present most corrupt and oppressive system for its government, in me shall find a weak, I am afraid, but a steady, earnest, and faithful assistant."

When Mr. Burke sat down, several Members rose to speak, but it being one o'clock, and the question being loudly called for, the House divided:—Yeas, 69; Noes, 164. So it passed in the negative.

Speech on opening the impeachment against Warren Hastings, Esq., in Westminster Hall, 15th February, 1788.

So much has already been said on the various charges brought against Mr. Hastings, the Governor-general of India, and which were followed by his impeachment, that it is needless here to recapitulate them. On the 13th February, the trial commenced in Westminster Hall, and was conducted with the greatest solemnity, in the presence of several members of the Royal Family, the Judges, the Peers, and the members of the House of Commons. Among the managers of the impeachment, appointed by the Commons, were Burke, Fox, Grey, and Sheridan, assisted by Drs. Scott and Lawrence, Messrs. Mansfield, Pigott, and Douglas; the counsel for the defendant being Messrs. Law, Plumer, and Dallas. The first two days were occupied in reading the articles of impeachment, and arranging the necessary formalities. On Mr. Hastings appearing in court, the Lord Chancellor (Thurlow) thus addressed him:—"Warren Hastings, you stand at the bar of this court, charged with high crimes and misdemeanours, a copy of which has been delivered to you. You have been allowed counsel, and a long time for your defence. But this is not to be considered as a particular indulgence, since it arises from the necessity of the case; the crime charged

against you being stated as having been committed in a distant place. These charges contain the most weighty allegations, and come from the highest authority. This circumstance, however, though it carries with it the most serious importance, is not to prevent you from making your defence in a firm and collected manner, in the confidence that, as a British subject, you are entitled to, and will receive, full justice from a British court." To this Mr. Hastings replied, "My Lords, I am come to this high tribunal equally impressed with a confidence in my own integrity, and in the justice of the court before which I stand." On the third day, the court being densely crowded, and one hundred and sixty-four Peers being present, the managers of the impeachment were called upon by the Lord Chancellor to proceed, when Mr. Burke arose and delivered the following celebrated speech, which occupied four days successively. It is much to be regretted, that, owing to the imperfect system of reporting at that time, this speech has been curtailed of many oratorical beauties which adorned it on its original delivery.

"My Lords,

"The gentlemen who have it in command to support the impeachment against Mr. Hastings, late Governor-general of Bengal, have directed me to open a general view of the grounds upon which the Commons have proceeded in their charge against him, to open a general view of the extent, the magnitude, the nature, the tendency, and effect of the crimes of which they have charged him; and they have also directed me to give such explanation as I may be enabled to give of such circumstances, preceding or concomitant with the crimes with which they charge him, as may tend to explain whatever may be found obscure in the charges as they stand; and they have further commanded me and enabled me to give to your lordships such explanation of anything in the laws, customs, and manners of the people concerned, and who are the subjects of the crimes which they charge him with, tending to remove all doubt and ambiguity. The several articles, as they appear, will be opened by the other gentlemen with more accuracy, and, without doubt, with infinitely more particularity, when they come to apply the evidence that they adduce to each charge.

"This is the plan, my Lords, that we mean to pursue.

"My Lords, I confess that in this business I come before your lordships with a considerable degree of animation, because I think it is a most auspicious circumstance, in a prosecution like this, in which the honour of this kingdom and that of many nations is involved, that from the commencement of our preliminary process to the hour of this solemn trial, not the smallest difference of opinion has arisen among us. My Lords, there were persons who depended on what was not to be expected from the justice of Parliament; but there were persons in this kingdom who entertained hopes highly consolatory to them; there were persons who entertained hopes that the corruptions of India would have escaped during the dissensions of Par-

liament; but they are disappointed in all the rest of their expectations which they had formed upon everything, except the merits of the cause. The Commons will not have the melancholy glory of having acted a right part in an imperfect work. What the greatest inquest of the nation has begun, its highest tribunal will accomplish. Justice will be done to India. It is true, your lordships will have your full share in this great and glorious work. We shall always consider, that any honour that is divided with your lordships will be more than double to ourselves.

"Notwithstanding all these encouraging pretensions, the Commons do not approach your lordships' bar without some considerable degree of anxiety. I hope and trust that the magnitude and the nature of the case will reconcile that solicitude with the undoubted confidence which we repose in your lordships' justice, for we are so made, that it is not only the greatness of the interest, but the value, that excites our concern in every undertaking; and I assure you (for I am authorised to say), no standard is sufficient to ascertain the value the Commons set on the case they now bring before you; for, my Lords, it cannot be conceived (God forbid it could be conceived!) that the business of this day is the business of this man. It is not solely whether the prisoner at the bar be found innocent or guilty; but whether millions of mankind shall be miserable or happy. You do not decide the case only; you fix a rule. For your lordships will undoubtedly see, in the course of this case, that there is not only a long connected systematic treatise of misdemeanours, but an equally connected system of maxims and principles invented to justify them, upon which your lordships must judge. It is according to the judgment you shall pronounce on the past transactions of India, connected with those principles, that the whole rule, tendency, and character of future governors in India, is to be finally decided. It will have its whole impression from the business of this hour. My Lords, it is not only the subjects of this great empire that are concerned; but the credit and honour of the British nation will itself be decided by this decision. My Lords, they will stand or fall thereby. We are to decide, by this gentleman, whether the crimes of individuals are to be turned into public guilt and national ignominy, or whether this nation will convert these offences, which have thrown a transient shade on its glory, into a judgment that will reflect permanent lustre on the honour, justice, and humanity of this kingdom. And there is another consideration, which is, in the judgment of the House of Commons, equal; I mean the interest of the national character—something that, if possible, comes more home to the hearts and feelings of every Englishman, I mean the nature of our constitution itself; for the consequence and purport of an impeachment for high crimes and misdemeanours before the Peers of this kingdom, upon a charge of the Commons, will very much be decided by your decision. For if this tribunal should be found, as I hope it will always be found, too great for trifling and petty causes; if it should at the same time be found incompetent to one of the greatest that can come before it; if the lesser from

their smallness, and the greatest from their magnitude of pressure, should escape you, it is impossible the high end of this judicature can be answered.

"My Lords, I do not know whether it is owing to the polish of our times, less fertile in crimes, perhaps; or from a sluggish apathy; but whatever the cause is, it is now sixty-three years since any impeachment, grounded on an abuse of authority in office, has been brought forward; the last is that of Lord Macclesfield in the year 1725.* So that the oldest process known to the constitution of this country is now, on its revival, introduced by some appearance of novelty; and at this time, when all Europe is, perhaps, in a state of great agitation, when antiquity has lost all its effect on the minds of men, and when novelty still retains its power to please, we have been very anxious in such a business so to conduct ourselves, that nothing in the revival of this great Parliamentary process should afford an excuse for its future disuse. What does not stand with credit cannot stand long; and if the constitution should be deprived of this great Parliamentary process —I mean, not in form, but virtually—if we should be deprived of this resource, we should certainly be deprived of all its other valuable parts; because, this is the cement that binds it all together, its individuating principle, that makes England what it is; this it is, by which the magistracy, and all other things, are directed and controlled. It is by this that statesmen, who abuse their power, are tried before statesmen, and by statesmen, upon solid principles of state policy. It is here that those who, by abuse of power, have polluted the spirit of all laws, can never hope for any protection from any of those forms; it is here, that those who have refused to conform themselves to the protection of law can never hope to escape through any of its effects. You have great and preliminary powers; you do not supersede any auxiliary jurisdiction; on the contrary, you are auxiliary to them all. Here, no part of the empire can be refused justice; here it is that we provide for that which is the great, substantial excellence of our constitution. I mean that great calculation of responsibility by which, excepting the supreme power, no man, in any condition, can escape his responsibility to the laws of his country.

"My Lords, interested thus—resolving to lay hold on this great security—we have—(I mean the Commons) have conducted themselves with such care; without losing the spirit and zeal of a public prosecution, they have comported themselves in such prosecution with such spirit, with such temper and decorum, as would not ill become the final judgment of this court. We say that, with very few interruptions indeed, the affairs of India have con-

* The Earl of Macclesfield, Lord Chancellor of England, was impeached by the House of Commons of high crimes and misdemeanours for his corrupt practices in the sale of offices, and the misapplication of the money of suitors of the Court of Chancery. The trial lasted twenty days; and the Chancellor, being convicted, was condemned to pay a fine of £30,000, and committed to the Tower till payment. After six weeks' confinement, the money was produced, and the earl discharged. Sir Peter King, created Baron of Oakham, succeeded as Chancellor.

stantly engaged the attention of the House of Commons more than fourteen years. We say, that we tried every method of legislative provision, before we had recourse to anything that was a mode of punishment. We say we came forward in 1774, and passed an Act of Parliament for putting an end to these disorders.* Finding that Act of Parliament did not answer all the ends expected from it; finding that that Act of Parliament fell short of our expectations, we had, in 1782,† recourse to the body of monitory resolutions. But when we found that our laws—when we found that our admonitions were despised; that enormities were increased in proportion to what was to be effected; when we found that legal authority seemed to skulk and hide its head like outlawed guilt; when we found that those who were appointed by Parliament for the maintenance of the laws of this kingdom, were the most forward in their opposition to them—then it was time for the justice of the nation to exert itself. To have forborne any longer would not have been patience, but collusion, a participation of guilt. When we found ourselves in that situation, we raised heaven and earth on the occasion—we attempted everything, in order to know whether we could find and feel our way—if possible, to avoid a painful duty without betraying a sacred trust. We found it impossible.

"Having, therefore, resolved on the mode of appeal and proceeding, it was our next business to find something that was worthy of long deliberation. We have proceeded accordingly. We have proceeded with calm selection, and we have chosen such a crime, such a criminal, such a body of evidence, such a mode of process, that would have recommended this proceeding to posterity, if it had not been supported by the example of our ancestors. First, the process we use. Besides that long previous deliberation of fourteen years, when we examined every circumstance that could prove favourable to the delinquent whom we resolved to prosecute, there was no precedent to be found in the Journals favourable to him that was not applied to. This, and a number of things utterly unknown to Parliamentary proceedings, which seemed in some degree to favour him, were resorted to on that occasion. My Lords, in the early part of the proceedings, the criminal desired to be heard. My Lords, he was heard, and he produced before the bar of the House of Commons that indecent and unbecoming paper which lies on our table; deliberately given in by his own

* From the gross mismanagement of the East India Company's affairs, and the flagrant abuses of their servants, the Company were obliged, in 1773, to apply to the House of Commons for the loan of a million and a half, for four years, at £4 per cent. Government thought proper to sanction the advance, but, at the same time, took the opportunity of introducing a bill "For establishing certain Regulations for the better Management of the East India Company's Affairs, as well in India as in Europe;" which, after most violent opposition in both Houses, passed into an Act; and from that time the affairs of India have been regarded as in the hands of Government.

† See *ante*, note, p. 361.

hand, and signed with his own name.* But the Commons passed by everything in that paper with a magnanimity that became them: they considered that the facts he alluded to must be maintained, and having used all manner of previous preparation, having given a large scope, even beyond former proceedings of Parliament, to everything that could be said in his favour, then we proceeded, and proceeded with confidence, to your lordships' bar.

"My Lords, in the next place, I observe, with respect to the crime which which we chose. We chose one which we contemplated in its nature with all its circumstances, with all its extensions, and with all its aggravations; and, on that review, we are bold to say, that the crimes with which we charge the prisoner are substantial crimes; that they are no errors or mistakes, such as wise and good men might possibly fall into—they are crimes—truly, and properly, and emphatically crimes. The Commons are too liberal not to allow for the difficulties of a great and arduous public situation. They know too well that domineering necessities will occur in particular situations. They know that particular situations will not give the mind time to have recourse to fixed principles, but that it is made frequently to decide in a manner that calmer reason would certainly have rejected. We know, that as we are to be served by men, the persons who serve us must be tried as men; and that there is a very large allowance indeed due to human infirmity and human error. This we know, and have weighed, before we came to your lordships' bar. But the crimes we charge are not the crimes and effects of common human nature and frailty, such as we know and feel, and can allow for; they are crimes which have their rise in the wicked dispositions of men; they are crimes which have their rise in avarice, rapacity, pride, cruelty, ferocity, malignity of temper, haughtiness, insolence; in short, in everything that manifests a heart blackened to the very blackest, a heart dyed deep in blackness, a heart gangrened to the very core. If we do not plant our crimes in those vices which the breast of man is made to abhor, we desire no longer to be heard on this occasion. Let everything be pleaded that can be pleaded on the score of error and infirmity; we give up the whole; we stand on crimes of deliberation; we charge him with nothing that he did not commit against remonstrances; we charge him with nothing that he did not commit against command; we charge him with nothing that he did not commit contrary to the advice, contrary to the admonition and reprimand, of those who were authorised by the laws to reprove and reprimand him. They were crimes, not against morals, but against those eternal laws of justice which you are assembled here to assert. They were not in formal and technical language, but in real and absolute effect, high crimes and misdemeanours.

* Mr. Burke alludes to Mr. Hastings's defence of his conduct, which he drew up and read to the House of Commons, in 1786, on Mr. Burke bringing forward the charges on which the impeachment was subsequently founded. The defence occupied three days, and was afterwards printed for the use of the members. See, *ante*, p. 110.

"So far as to the crime. Now, as to the criminal. We have not chosen to bring before you a poor, puny, trembling delinquent, misled, perhaps, by the faction of those who ought to have kept him in awe, and oppressed afterwards by their power, in order to make his punishment the means of screening higher delinquents. We have not chosen to bring before your Lordships one of those obscure offenders in other situations, whose insignificance and weakness, weighed against the public prosecution, give it something like the nature of oppression; but we have brought before your Lordships the first man in property and power; we have brought before you the head, the chief, the captain-general in iniquity,—one in whom all the frauds, all the peculations, all the tyranny in India are embodied, disciplined, and arrayed. Then, if we have brought before you such a person, if you strike at him, you will not have need of a great many more examples,—you strike at the whole corps, if you strike at the head.

"Now, my Lords, a few words relative to the evidence that we have brought to support such a charge, which, we think, will be equal to the charge itself. It is evidence of record,—of weighty, official, authentic record,—that is, made up of papers signed by the hand of the criminal himself: it is made up of his own letters, authenticated by his own hands; it is made up of numbers of witnesses,—oral, living witnesses,—competent to speak to the points to which they are brought; and I trust that the evidence will be found such as cannot give you the least doubt in your minds of the facts; and, when you consider them, when the facts are proved, I believe, from their nature and effects, you can have no doubt of their criminality.

"My Lords, when we consider the late enormous power of the prisoner; when we consider his criminality, indefatigable in the destruction of evidence; when we consider the power he had over all testimony, I believe you and the world will be astonished that so much, so clear, and so solid a body of evidence should appear against him. My Lords, this I say, that I have no doubt that, in nine instances out of ten, it would satisfy the narrow precision which is supposed to prevail in all subordinate powers and delegated jurisdictions. But your Lordships will maintain, what we assert and claim as the right of the subjects of Great Britain, that you are bound not by any rules whatever, except those of nature, immutable, and substantial justice. God forbid the Commons should come before your Lordships, and desire that alone should be proof produced by them which is admitted to be proof by inferior jurisdictions. They then would overturn the very principles of that justice which they resort to your Lordships to give to their constituents and to the people of India. God forbid that you should reject evidence on any pretended nicety; which I am sure you will not. I have too much confidence in the learning with which you will be advised, and the liberality and nobleness of the sentiments on which you have been formed, to suppose, for a moment, that your Lordships would, by any abuse of the forms and technical course of proceedings, deny justice to those claimants; for you always had a boundless power,—I mean, always within the limits of justice, you had a boundless

power and unlimited jurisdiction. You have now a boundless object. It is not from this county or the other parish, but whole climes, and differing nations; various descriptions of men, differing in language, in manners, and in rights; men separated by every means from you. However, by the providence of God, they are come here to supplicate your assistance, and I hope and trust no rule, formed on municipal maxims, will prevent the interior justice that you owe to all parts of the empire.

"Situated as we are, subjects, thank God, of envy, for that grandeur to which we are arrived, it is well known that great wealth is poured from India into this kingdom; and it is no degradation to us to suppose the possibility of being corrupted by that which great empires have been corrupted by, and by which assemblies and senates have been corrupted. My Lords, when I say that forty thousand millions of money have come from India to England, we ought to take care that corruption does not follow; we ought to see that; for the best way of securing a man's reputation is not by a proud defiance of public opinion, but by governing himself in such a way that it may not be defied. I think there is nothing in your Lordships' proceedings that appears to have the slightest trace, the faintest odour, of chicane. God forbid that, when you try the cause of Asia in the presence of Europe, there should be a suspicion, that the cause of India is not as good with you, as the abuse committed by a British subject has been great! that British subjects in power should have rights which are denied to those who, at such a distance, depend on the breath of British subjects, and have deprived themselves of every other resource! My Lords, I do not say this from any fear, doubt, or hesitation, as to what you will do: none in the world; God forbid I should! but you all know what is disseminated abroad among the public, that those who cannot defend themselves on the merits of their transactions, may defend themselves behind those fences and entrenchments that were made to secure the liberty of the subject. God forbid that should be the case; that the laws of England should be for the rich, the powerful, and the protected, but not for the poor, the miserable, the oppressed, and the defenceless; that for them they should afford no resource at all! God forbid that we in this kingdom should know how to confer the most extraordinary and exorbitant powers on public ministers, but that we should be poor, helpless, and deficient in calling them to account for it! God forbid that, as no nation under heaven equals the British nation in substantial justice, this should be the case! I trust this cause will put an end to all conjectures of this kind so disseminated throughout this kingdom and foreign nations, that, in order to cover and shelter the riches of the East, we have invented a system by which we are to deny a great part of what all the world knows, and a great part both knows and feels. I do not deprecate it from a suspicion that such will be the case, but from knowing that, hitherto, we have moved within the circle of municipal justice, and, after moving within that circle, it may be suspected we have endeavoured to force nature into that, and not endeavoured to enlarge the circle of justice into the liberties we have obtained. If such a

thing should happen, it will be best to give the short answer of the Dey of Algiers: 'My friends, do you not know that my subjects are a band of robbers, and that I am their captain?' Better far, my Lords, and a thousand times more manly, than an hypocritical process, which, under a pretended reverence for the law, abandons mankind to all the consequences of arbitrary power. I trust no such thing can prevail in this House, but that your Lordships will exercise the great plenary powers with which you are invested, in a manner that will do honour to your justice, and show the justice of this kingdom, by perfecting the exercise of that law which binds them to us and us to them. I do not think that such opinions have been spread abroad with any foundation, but because many persons have observed that, in the Old Bailey and many subordinate tribunals, great criminals have sometimes escaped and been acquitted, though dishonourably, who had no hope to escape, if their case had come before the court; but they founded their hope in some subtilty of form, in some mode of pleading,—they may prevail in subordinate courts, but will not prevail here. My Lords, you are acquainted with those reports which have been spread abroad, which have only got abroad to be lashed home again, and to be entirely overturned by the sacred simplicity and nobleness of your justice.

"Now, my Lords, having said all that I mean to say concerning the process of the House of Commons, concerning the crime and the criminal to whom they attach that crime, and concerning the evidence, I am now directed to proceed to open to your Lordships a view of the proceedings, in explanation of those powers which Mr. Hastings is charged to have abused. My Lords, I hope that this business, which falls to my share, is rather an explanation of a circumstance, than an enforcement of the crime. I hope and I trust you will be so good as to suppose that this business is not a thing that occurs every day, in the ordinary round of municipal affairs, and that it is a relation of many things, that it touches many points in many cases. In other affairs in the orbit of our English business,—in other affairs every allusion immediately meets its point of reference; there is something in our laws which you meet with every day; but here you are carried, as it were, into another world; here you are to have the world cleared and pioneered in every part of it. You see the necessity there is of having an explanation, and now that business must be explained as it is introduced. The explanation can be but comparatively short; therefore, knowing your Lordships to be possessed, along with all other judicial virtues, with that of patience, I hope and trust you will not grudge a few hours to the explanation of that which has cost the Commons near fourteen years of assiduous application; that you will not disdain a few hours to what has cost the people of India upwards of thirty years of their innate inveterate patience to endure.

"The powers which Mr. Hastings is charged to have abused, are the powers delegated to him by the East India Company, and which they bind inclusively all their servants to perform, according to the duties belonging to their new office. They are bound to preserve and protect the people, the

same as if the Mogul's empire had existed; to observe the laws, rights, usages, and customs of the natives; and to pursue their benefit in all things. This was the express institution and purport of the office they received of the sovereign from whence they derived those powers, which, from any misfortune in human affairs, are not annihilated and suspended; the charter which they derived is not annihilated, but remains in all its force, and, therefore, they are thrown back to that centre from which they originally proceeded; for, when the great Company acquired that office in India, it became an English combination,—it became an integral part of the Mogul empire. When Great Britain assented to that grant virtually, and afterwards took advantage of it, Great Britain made a similar union with that country to preserve the people in all their rights, laws, and liberties, which their natural sovereign was bound to impose, if he was in a condition to do so; which two duties, flowing from two original sources, are now united in one at the bar of this House, from whence originally their powers were derived.

"It may be a little necessary, when we are stating the powers they derived from their charters, to state, in as short and comprehensive words as we can,—for the matter is large indeed,—that the East India Company act under two sorts of powers: the first is under the charter which the Crown is authorised by Act of Parliament to grant; the next is from several charters, indeed several grants and charters, derived from the Emperor of Mogul (the person in whose dominions they are chiefly), particularly the great charter in 1765.* Under those two charters they act. As to the first, it is from that charter they derive their capacity, and can be considered as a public body at all; it is from thence they acquire their capacity to grant any other charter,—to hold any other offices and professions. This makes them responsible to the party from whence that power is derived; they are responsible themselves,—their body as a corporate body, themselves as individuals; and the whole body, as a train of servants, are responsible to the public of this kingdom. This kingdom has not released this sovereignty; on the contrary, the responsibility is increased with the greatness of the powers. I hope this day you will show that this nation never did give a power without giving a proportionable degree of responsibility."

[Having settled the point of responsibility, Mr. Burke briefly stated the several powers granted to the East India Company; what the constitution of the East India Company is, and particularly what its constitution is in reference to this Indian service.]

"Where the great theatre of abuse was spread, is well known. I shall, therefore, spare you a long history, and request you will remember, that the East India Company received this constitution originally about the latter end of the reign of Queen Elizabeth,†—a period of time when all sorts of monopolies were the fashion. At that time they were sent out with a very large

* It was in this year the Company obtained from the Mogul the districts of Bengal, Bahar, and Orissa.—See, *ante*, p. 676.

† The first charter was granted in the year 1600.

and ample charter, for extending the commerce and for increasing the honour and reputation of the country; and it would have been thought then, and will be thought now, a very bad bargain indeed, but that the powers of that charter were confined merely to control affairs. By degrees, as necessities required, as the theatre of operations became enlarged, it was found necessary to enlarge the powers of the Company. The first power they obtained was a power of naval discipline for their ships,—a power which has since been dropped. The next was a power of law-martial; the next was a power of civil and, to a certain degree, of criminal jurisdiction, within their own settlements, and among their own people and servants. The next was the power—and there was a stretch indeed!—the power of peace and war. These great and high privilges,—privileges which never were known before to be due to any subject,—were given to the East India Company at a period when they required them all. About Charles the Second's time, the delegation of the whole power and sovereignty of this kingdom was sent into the East. In that light the Company began, undoubtedly, to be considered, and ought to be considered, as a subordinate sovereign power,—that power subordinate with respect to the persons from whence it was derived. When the Company once appeared in this light, things appeared to be totally different; for, in all other countries, the political capacity of every body, of whatever nature, that acts as a commonwealth, is first settled; the trade follows as a general consequence. But here the order was reversed. The constitution of the East India Company began in commerce and ended in empire; and it was natural, where the first great, high, and leading powers of peace and war were given, and wanted the leading circumstances to carry on their situation. Accordingly, so it did happen. The existence of the East India Company coincided with the improved state of Europe, coincided with the rights, coincided with the laws, and, what is much more material, with the improved state of modern discipline. The existence of the East India Company coincided with the wealth of nations, and the total disuse of almost all the military parts of discipline. They became what the East India Company is; they became a great empire, carrying on an extensive trade, subordinately, under the public authority. It still preserves traces of its original mercantile character, and the whole exterior order of the service is carried on upon a mercantile plan. It is carried on upon mercantile principles: it is a state in the disguise of a merchant: it is a great public office in the disguise of a counting-house. Accordingly, the whole order of proceeding which I have the honour of remarking to your Lordships, is commercial; the principal, inward, real part of the Company is entirely mercantile. My Lords, the Company's service, the order and discipline of which it will be necessary for me to explain, is commercial. First, all persons who go abroad in the Company's service, are entered as clerks in a counting-house, and are called by a name correspondent thereto, namely, writers: they are articled for five years. The next step, they become factors; they serve three years more, after which they become junior merchants; then they serve three years more, when they

become senior merchants, and have pretensions to be members of Council, and to whatever other honours arise; for the Company had originally established factories, which grew by degrees into the name of Council; and, as the power and influence increased, the same order continued till 1773, when the Legislature (for proper reasons urging them to it) broke in upon that order of the service, and appointed to the superior stations persons who were not, in this mode, entitled to them.* Some thus appointed, as Mr. Hastings was, might be entitled by the course and order of service, but the title they derived by express Act of Parliament. In all other respects the business did, and still does, continue on a commercial footing.

"Now, your Lordships observe, here is a regular system, a regular order, a progressive gradation, which requires eleven years before the persons concerned in it can possibly arrive at the highest trust and situation in the Company's service, and you will therefore be naturally astonished when you know, after so long a service, after so long a continuance, that things very different have been introduced. In a short time you see persons return to England with great and ample fortunes. It will be necessary to know how that order came to be broken in upon, so completely so, that scarce a trace is remaining; because, though I will not deny that any regular order of state may be superseded by the supreme authority, whenever the public good requires it, yet the order of that service was formed on wise and salutary principles; it afforded the individuals great opportunities of acquiring experience, and gave those who watched them, a constant inspection of them in all their progress. But scarce a trace of it remains to be discovered; for Mr. Hastings, by making offices which had no reference to gradation, first broke through that regulation; he next formed new offices, and invented such as had no respect to rank and gradation; and, lastly, he established a whole system of offices, particularly in 1781, to which, being new, none of the rules of gradation applied. The consequence was, that persons in the most immature state have been placed over the conduct of affairs, which required the greatest possible judgment and self-command.

"So far with respect to the order of the Company's service, though there is something peculiar in the case of the East India Company, and different from that of any other conqueror that has ever extended his power over any other country, namely, that the Company in India is not the British nation; for when the Tartars entered into China, when they entered into Hindostan, when the Gauls and Vandals entered into Europe, they came as a nation. But it is not the English nation in India, it is nothing but a seminary for the occupation of offices. It is a nation of placemen; it is a republic, a body of people, a state, made up of magistrates; there is no one to watch the powers of office; so far as the English nation is concerned, there is no corrective

* See *ante*, note, p. 791. It was under this Act that Warren Hastings was appointed Chief Governor, and the Hon. George Monson, General Clavering, and Messrs. Richard Barwell and Philip Francis, Members of the Council.

whatever. The consequence is, that being a kingdom of merchants, they are actuated by the spirit of the body; in other words, they consider themselves as having a common interest separate from that of the country which sent them, and of the country in which they are, where there is no control of the persons that understand the language, and manners, and customs of the country. Therefore, confederacy is easy, and has been general among them. Therefore, you are not to expect that that should happen in this body, which never happened in any body in the world; that they should be a check upon themselves. But the circumstance I state, of having no other office in the world, as a check upon them, as it is a thing that has not happened, neither can it happen elsewhere; therefore, out of it has arisen the system of offices of which Mr. Hastings has thought proper to put himself at the head, in opposition to the power that sent him out, and to all other authority.

"My Lords, we next come to consider the emoluments of office. Do those emoluments in the smallest degree correspond with the trust attached to it? Under the name of writers, of junior merchants, of senior merchants, you have the ministers of revenue; you have judges civil, and in a great degree, criminal, who prey on the greatest properties of the country; and the emoluments that belong to them are so inadequate to the dignity and force of the character, that the rule is reversed which is observed in other countries. Glory, fame, reputation, the love, the tears, and the applauses of our country, pay those arduous situations of labour, which in great commonwealths are required. The reverse is the state of affairs in the country which Mr. Hastings has abused. Instead of fixing honest and honourable rewards for those who serve the State, he has left them to prey upon it without any degree of control; he has not provided for them honest emoluments, but has left them at liberty to prey on the country, and to find out emoluments for themselves in the best manner they can. These are the defects of that service: there is no honest emolument in much the greater part of it, answerable to the demands and wants of the people that serve: as one of the most honest and able of their servants once said to me, the civil service of the East India Company resembles the military service of the Mahrattas—very little profit, but unbounded license to plunder—open to all dishonest emolument, but shut against all just claims. The next circumstance is the extreme youth of the persons employed in this service. They have generally been sent out to India at that period of life which in all places is usually devoted to education. They have been sent there at an inordinate expense, in contemplation of the boundless power they would receive in the gradation, into which, of course, they would enter. Schoolboys without tutors, minors without guardians. The world is thus let loose upon them with all its temptations, and they are let loose upon the world. And there is in it this one thing that is remarkable. They are to exercise, what you, my Lords, are now exercising, high judicial powers, without the smallest knowledge of any law, either general or municipal. It is a known rule in the service, that the judicial character, which is the last in study,

which is the last in professional experience, is the first experimental situation in the service of the Company. It is expressly said, that the offices and places of the judges are to be filled by the juniors of the Company; the judicial services being taken, as it were, *in transitu*. As soon as a man has supplied the defects of his education by the medium of experience, he is immediately transferred, and another young man is sent, at the expense of the property of the people of India, to finish his education and form his character. The other stations are those of statesmen, which undoubtedly require great talents to fill up, and much study. We know that in the habits of civilised life, in cultivated society, there is imbibed by men an infinite deal of morality, of maxims of state, of everything that fits them to serve their country; but these persons are sent over without judgment, without knowledge, without experience, to exercise functions at which any statesman here would tremble, and to which few, indeed, are equal. Mr. Hastings has, in his Defence, lamented his situation in this particular; and it is much to be lamented indeed. How far it will operate in the way of justification, or palliation of his conduct, when we come to examine it, remains to be seen hereafter. But the fact is, that the servants of the Company are sent out young; that they are sent out with incompetent emoluments; that they are sent into a body that forms them, to an *esprit du corps* without discipline. And thus it is, that the laws which have been made for the Company have proved mischievous to the Company. Their servants are obliged, when they enter into the service, to enter into it, not only with the good character generally required of servants, but with a stipulation to perform all the duties, under heavy penalties, and renunciation of the offices. The law is clear; the engagements positive, having no exceptions in them; but any one who offends against the law is liable to the law. The consequence is, that all the little systems are to screen all the enormous offences; for every one knows, if he has taken but one penny of unlawful emolument (and they have all taken many pennies), that the most cruel oppression awaits him. He who may have taken only a present to do a good act is obliged to wink; he dare not stir; the poor man is not able to prove his case; the superior offender, the great man, is always able; in consequence of which Mr. Hastings is not only benefited by this grand defect in the Company's service, by making it impossible for any man to rise in situation and fortune; but he is favoured by having such a hold in the weakness and corruption, above, below, and on all sides, by one common participation and connivance, that the whole is complete, and, accordingly, he has had no complaint from the service; and he states it as one of the proofs of his merits. Now, my Lords, I say no such complaint can exist. An informer is hunted down, and has always been hunted down, as a common enemy to the common profits of great offenders. No one dared to move against him; and he threatened them if they did. We can prove to you, that when the Company were anxious to proceed against their particular servants, Mr. Hastings directly contradicted it — directly contradicted the direct and

positive law of the Court of Directors. Not satisfied with this, before he went away he passed a general pardon, which he was not authorised to do, and at once ordered the whole complaint of the Company to be discharged.

"My Lords, I have given your lordships an account of writers, of merchants, who take upon themselves to exercise the office of judges; and having so done, I must now inform your lordships that there is another description of men, whether in the Company's service or not, that are of more importance than all—a description of men under a character which you have often heard of, but which has not yet been explained, I mean the character of Banyan. The Company's servants, my Lords, use the intervention of certain factors among the natives, who are called banyans. The banyan, as he is called, is the steward of the house; he has the care of hiring and ordering the servants: these are his domestic functions; he is a domestic servant, and is generally chosen out of that class of the natives who, by being habituated to misery and subjection themselves, can submit to any orders, and are fit for any of the basest offices. Having been themselves the subjects of oppression, they understand perfectly how to oppress others; having served an apprenticeship to servitude, they have qualified themselves for the trade of tyranny. They are persons without whom a European can do nothing; they know all the little frauds, all the defensive armour, all the artifices and counter-works by which abject slavery secures itself against the violence of power; they know all the lurking holes, and they hunt out distress and misery in all their labyrinths: without them Europeans, with all their pompous names, are nothing: these persons represent the Europeans. These people immediately make application to the gentlemen who come to India; they take possession of them as if they were their inheritance; they have a perfect knowledge of the country; they have money, and the art of making money. The gentlemen that come from home have nothing; they have no money, they have no knowledge, they have nothing but the disposition to enrich themselves; and it is to be lamented that the banyans exercise their tyranny, not alone over the master, who does nothing, but who gives them the ticket of his name to spread the knowledge that the banyan is supported by an European; and from that moment it is not the Englishman, it is the black man, that is the master of the people. We well know, my Lords, how young men are sent out, and we also know equally well how soon they are in a hopeful way of thriving: the banyan knows it too; he knows the force and use of his master's name and power; with this he goes into the country with a commission in his hand which nothing can resist: this banyan, thus armed, thus empowered, has not only the people under his subjection, but his master also; he has the power over him—that dreadful power which every creditor has over his debtor. The master is no longer a master; he is a tool in the hands of this man; and actions the most abhorrent to his nature must be committed before his eyes, besides numberless ones that never come to his knowledge. The banyan glories in this. The very best things being liable to be perverted when put into a system of oppression and tyranny, the very laws of England give ten times more power to the banyan; they become,

unintentionally, an additional security to that banyan; so that the Company's servants are, in reality, in half the service at least, nay, in more than half, nothing but the tools of the miserable tyranny which the lower part of the natives exercise, to the disgrace of the English power, and to the ruin of all their countrymen. The Company's servants, in order to free themselves from this horrid and degrading servitude, are obliged to become the tools of men in power; they are obliged to become the servile tools of Mr. Hastings, and to leave themselves neither honour, power, nor reputation; and this is owing to that servitude they have under the banyan.

"Now, my Lords, this system of banyaning, which it was Mr. Hastings's business to keep down, he has both encouraged and established, and has formed it into and made it an iniquitous system of extortion. Nay, more, my Lords, Mr. Hastings has brought forward his own banyan: he has seated him in the houses of the principal nobility; he has invested him with revenues, given him emoluments, put him over the heads of nobility, who really, for their grandeur, antiquity, and dignity, might almost be matched with your lordships; he has put him over their heads, and he has made him supreme judge, and has acted under him, and by him, and by banyans of various kinds. Your lordships will see hereafter the necessity of my opening this circumstance respecting the banyans. No Englishman, properly speaking, acts by himself; he must be made responsible for that person whom he calls his banyan; for the power he has, that power the banyan uses over him; these are the persons who escape, on account of their situation, the inquiries that another man dares not stand. Through them, Mr. Hastings has decided against the titles of the people of the country; through them, he has exercised a discretion which he never dared—and he is the most daring criminal that ever existed—but which yet he would never have dared to exercise in person; therefore we shall show you that most of his iniquities have been done by banyans; and, not satisfied with one, that he has employed two, three, or four, each of them not knowing the other. This, my Lords, is the system which Mr. Hastings, instead of eradicating, has propagated by example, by authority, and by abuse. Here you have a description of the constitution of the Company's service from beginning to end.

"My Lords, I now come to mention one grand mercantile institution; an institution so extraordinary, so excellent, and so perfect, that I will venture to say human wisdom has never exceeded it, and that it was worthy of the guardianship not only of the East India Company, but of all the powers in the world. The counting-house has here given lessons to the state; and, my Lords, it will always happen, that if you can apply the regulations which private wisdom makes for private interests, to the concerns of the state, you will have, from that active, awakened, and enlightened system of self-interest, a better constitution of things than ever has sprung from the wisdom of statesmen; or than they, looking for good out of themselves, ever can devise. Therefore I repeat it, that the mercantile interests of men, wherever applied to the discipline and order of the state, have produced a discipline and order which no state would be ashamed to copy, and without which no state can

exist. The institution I speak of is the best contrivance ever devised by the wit of man for a remote extensive empire. Merchants having obliged themselves, from the remoteness of their correspondence, to a strictness in that correspondence not used by any other men; accordingly, the Company have made it a fundamental part of their constitution that the whole government should be a written government. Your lordships will observe from the papers the propriety of my opening this point: the strictest court of justice in its strictest proceedings is not more a court of record than the East India Company is in all their transactions. First, they oblige their servants to keep a diary of all their transactions; next, they oblige them to keep a letter-book in which all their letters are entered; and that diary and that letter-book they are bound to produce on requisition, although it should be mixed with affairs concerning their own connexions, in commerce, or their dearest concerns in private life. These books are to be produced; and, as a grand connective, they have ordered that every proceeding in public council should be written; all written, all record. All other public bodies, the House of Lords, the House of Commons, the Secretaries of State, enter only resolves; but the argument, the decision, the dissent, does not appear. The East India Company have proceeded much further, and done much more wisely, because they have proceeded on mercantile principles; they have ordered the whole to be written, not in their great council only, but they have ordered the same course to be pursued in every provincial council, to the minutest ramification of their servants; and the writings to be transmitted by every ship that comes to England. Therefore it was well said by an able servant of the Company, how sacred this rule ought to be held. It should be remembered, that it is the accuracy and simplicity of mercantile methods which make every transaction in the service and every expenditure a matter of record. This affords the Company the opportunity not only of discovering what the nature, character, and capacity of their servants are, but furnishes them with the means of detecting their malversations, by affording evidence and testimony under their own hands. For your lordships will observe that, for the successful completion of all evil practices, no uniform mode of proceeding will ever serve. Innocence is plain, direct, and simple. Guilt is a covered thing; accordingly, however the guilt and iniquity of to-day may be covered by specious reasons, yet when the iniquity of to-morrow comes to expose the iniquity of to-day, the man falls into prevarication and confusion, and thereby hastens his detection. Besides, my Lords, the servants of the Company have not time to corrupt the records; they are torn out of their hands, and are perhaps before Parliament ere they have time to invent an excuse for their conduct. This is a great and material part of the constitution of the Company, and is, as I said, (and I do not think it necessary to apologise for saying it), the best contrivance that ever was devised by the wit of man. This is the fundamental point of the Company's service, and this, if persevered in as it ought to be, would afford such an example of the mode in which a foreign empire ought to be governed, as, I will venture to say, very few governments possess.

But this leading point of the Company's service Mr. Hastings has perverted; first, by sending out agents, to whom he gave directions, that their correspondence upon the most momentous and important affairs should be delivered to him, for the purpose of being suppressed and destroyed; secondly, by making a most mischievous and fatal distinction between public and private correspondence, in which the Company made none. As to private correspondence, there are many occasions on which it is not necessary for you to communicate your correspondence to those that are above you, and to whom you are accountable. These were the inventions of Mr. Hastings. The next way—without entering into all the ways in which he has attempted to do it—is by appointing spies and under agents, who should carry on a secret business; and thus there remains nothing but the shell and husk of a dry and official correspondence, which neither leaves anything, nor has anything to leave. Mr. Hastings has adopted a mode to defeat the benefit all at once, by placing the whole administration of the country in hands which are not bound to record their deliberations, which are not bound to record their assent or dissent unless they chose so to do. There he has engulfed the most important part of the whole Company's administration. Some parts, however, remain, some precious fragments of infinite value—for highly will the nation have reason to value them, and to regret the loss of what is gone. Were it not for these precious fragments, all the shameful enormities that have disgraced a government or vexed a people, would only be known in this country through the medium of unauthentic whispers and unauthentic anecdotes; and its honours, the highest distinctions and rewards which this country has to bestow, might be given to the authors of those enormities. Avowed barbarity, base peculation, wretched extortion, and cruel tyranny might be invested with those sacred robes of justice before which the people of India and the Commons of England have now cause to come. Mr. Hastings refused, by letter to the counsel, the various acts and muniments; he refuses to be tried by his various acts and declarations delivered under his own hand; he knows that what remains of that written constitution that he has destroyed is enough to destroy him; and therefore he rejects it *in toto*. He desires to maintain the privilege of prevarication, of contradiction, of changing not only his conduct, but the very principles of his conduct, whenever there is any occasion for his so doing. He knows that he and that record cannot exist together. My Lords, I hope you will show that destroyers of those muniments are not to accomplish their purpose with impunity. I hope you will say to him what was said to another person on a less occasion, but with greater authority, 'Out of thine own mouth will I condemn thee.' You shall have his own words, his own account of his own conduct, to prove to you what he is, by greater and better authority than any record.

"Having gone through what I think necessary concerning the oriental part of the constitution; having done this, and stated to your lordships the abuses that existed, and how Mr. Hastings endeavoured to perpetuate and increase them, and made use of his authority for that purpose; if I have

strength, and if I have not already wasted your lordships' time—[hear, hear, hear!]—I shall next beg leave to state to your lordships the abuse which he has made of the other part of the public authority which the Company had acquired over the natives, in virtue of the royal charter of the present Mogul empire in 1765. It is necessary to state to your lordships who the people are over whom Mr. Hastings has abused this power. This may be a little out of order, but it will be necessary for me to explain it; and I shall do so with as much brevity as the distinctness which I mean to use, and the preparatory matter necessary to explain the matter that is next to come before you in regular charges, will permit. I shall hold myself bound to explain always by evidence; though I know it is allowed to advocates, when they are opening private cases, to indulge themselves in a display of matter leading to the charges that they are to bring; and they are not always called to the strictest account for it. But, with the high opinion I have of your lordships' judgment (and it is impossible to conceive a higher opinion than I have of this tribunal), and sensible of the weight of those I represent in this place, I should be sorry that any one substantial fact, or even colourable thing, should be alleged by me which I was not able to make good to your lordships by proof. I shall hold myself bound to account to your lordships for the preliminary observations as much as for the charges themselves.

"I am, then, to state to your lordships, that there are in India two sorts of people, totally distinct from each other in knowledge, character, rights, laws, and manners. The first set of people, I am bold to say, are the original inhabitants of Hindostan, who have, in all times, and beyond all eras that we know of, been proprietors and inhabitants of that country, with manners, customs, and rules, appropriate to themselves. These people are commonly called Gentoos: the system and principle of their government is local; their laws, their manners, their religion are local. These people, who are the most benevolent of mortals, who extend their benevolence to the whole animal creation—these people are inaccessible to the whole human race. They cannot, without pollution, touch men of another race. That bond which is the bond of life, of conviviality, and which unites the species in other countries, cannot hold these people. The very element which unites mankind—I mean the sea—is forbidden to them; none of their high classes can ever pass the sea. If it could ever be truly said, that a great gulf is fixed between you and any people, it is the great gulf which the manners, opinions, and laws of these people have formed. And this, my Lords, makes it ten times more necessary for us to keep a strict eye on all persons that go thither, to see that they conduct their own affairs in a manner that may be conformable to the system of this singular people. We must not force them into our narrow ideas, but extend our sphere to take in theirs. We know that the impression of opinion is—I was going to say stronger than human nature—but it is the strongest part of it; and that much of the happiness and unhappiness of mankind consists in opinion. Sometimes our laws of religion differ from the laws of the land; sometimes the laws of our land differ from our other laws; but in

India they are all contained in one, and bind a man eternally to the rules of what they call the caste. These people, my Lords, from the oldest time, have been distributed into various orders, all hereditary, which are called castes, of which four are the most remarkable, the Brahmins, the Khetterees, the Vaysias, and the Sudras ;* the first, the priests, to whom honours almost divine are paid; the second, the military order; the third, husbandmen and merchants; the last, the menial or servile class, or caste. The higher kind cannot pass into the lower—the lower kind cannot pass into the higher. They have all their appropriate rank and situation; and their appropriate religion too, different in many of its rites, ceremonies, and institutions, in each of those classes. A man who is of Brahminical character, when he forfeits his rank, does not fall into the next order, but he falls out of all rank in society; he is excommunicated. These people are bound, by all laws, human and divine, to the principles of their caste; they are affected in their caste not only by voluntary crimes, by which they may lose it, but likewise by certain involuntary sufferings, by disgraces utterly out of their own power. When they lose their caste, they lose everything."

[Having given a concise account of this people, their peculiarities, customs, manners, and religion, and of the beneficial, moral, and civil effects arising therefrom, as they appeared in the first period of their history—adverting, as he proceeded, to the just policy which these circumstances should have dictated to our Government, and pointing out the new sources of tyranny and oppression with which they had furnished Mr. Hastings; Mr. Burke proceeded to state the happy and flourishing condition of India under the original native government, and continued their history through the several revolutions that took place, from the irruption of the Arabians, soon after the time of Mahomet, to the usurpation of Ali Verdi Khan, and the establishment of the English power in 1756: and he proved, in opposition to the argument urged by Mr. Hastings, in his Defence, namely, "that the native princes held their dominions as mere vassals under their conquerors that, neither under the government of the Arabian or Tartar invaders, nor of the usurping Soubahs and Nabobs, were the native princes and zemindars dispossessed of their estates, and the jurisdictions annexed to them; but that, up to the last unfortunate period, they preserved their independence, rank, and dignity: their forts, their seigniories, and always the right, sometimes also the means, of protecting the people under them.

Here Mr. Burke closed his first day's speech, and on the second day proceeded thus:—]

"My Lords,—In what I had the honour of laying before your lordships yesterday, and in what I may have further to trouble you with to-day, I trust

* A fifth caste are the Parias, or those who have lost their station in the other castes, and are considered as polluted themselves and defiling everything they touch. At the present time the Brahmins and Sudras are the principal castes; the Khetterees (sometimes called Kyetras), and the Vaysias, being nearly extinct.

and hope your lordships will observe a distinction, which if I did not lay down so perfectly as I ought yesterday, I hope I shall be able to mark out particularly and distinctly this day. My Lords, whatever I may think necessary to state as matter of explanation, in order to give your lordships a true idea of the scene of action, the instruments Mr. Hastings employed, and the effects they produced, that I wish to be distinguished from the matter brought to criminate. The first is only illustrative, in a great measure, of the last; and your lordships are to look for the substantial part of the crimination at the moment when the evidence is going to be produced to you. For instance, my Lords, if I state history to your lordships, as I did when I stated that tyranny, cruelty, iniquity, and oppression, exercised by one of the usurping viceroys, led the way to our power in India;* it is not that I charge Mr. Hastings with that guilt, but with having avowedly looked up to that ruler as his example, and followed him with servile fidelity. When I have spoken to your lordships of anything abusive or leading to abuse, from its defects, in the Company's service, I have not meant to criminate Mr. Hastings with any part of that, any further than as he used the weakness of the institution to let in his abuse of power. For instance, if I have stated that the East India Company, as to its general service, was weak in general emolument and full of temptation to illegal gains, I do not state that effect as owing to Mr. Hastings, but I state it as leading to that which we shall more particularly bring before you, that Mr. Hastings, taking advantage of that infirmity, did fraudulently, corruptly, and for the purposes of his own ambition, make, under a pretended reformation, an illegal, partial, corrupt increase of emoluments to certain persons; thereby increasing the disorders of the service, and loading the Company with heavy expenses.

"Entreating your lordships to bear in mind this distinction, I shall beg leave to proceed to that period at which I closed; that great and memorable period which has given occasion to the proceedings of this day, and which I hope will shine, for the honour of British justice, in the future annals of Great Britain. To obtain empire has been a common thing; to govern well more rare; to chastise the guilt of those who have abused the power of their country is, I hope, a glory more particularly reserved to this nation, this time, and this high court. The year 1756, my Lords, is a memorable era in the history of the world: it introduced new manners, new customs, new opinions, and new laws into India; and a brilliant page would that era have formed in the history of this country, if we had shown, upon that occasion, our virtue to have been equal to our fortune. If, in that part of Asia that had had its native government broken up, and had fallen into confusion from the petty, internal ambition of its own grandees, a star had arisen in the west, it would have prognosticated peace and happiness to the natives of that kingdom. Great and godlike would it have been to

* The beginning of the absolute government of the English in Bengal is generally dated from the defeat of Surajah Dowla, the Soubahdar, by Lord Clive, at Plassy, in June, 1756. See note †, *ante*, p. 677.

have realized that peace and that happiness: and, indeed, it was to be expected, seeing that dominion came from the most enlightened quarter of the globe—seeing that it came from a nation the most enlightened of that quarter. My Lords, if such had been the result, the business of this day would have been spared; but it has happened otherwise, and it now remains for us to repair, by every means in our power, the injuries and evils that have ensued.

"Therefore, my Lords, resuming where I broke off, from your indulgence to my weakness, yesterday, I shall beg leave to restate to you, that Suraja Dowlah was, by adoption, the grandson of Ali Verdi Khan, a cruel, ferocious tyrant. The manner of his accession to power I will take the liberty of stating to you. He came young and inexperienced to that throne of usurpation; for it was an usurpation; but it was yet green, and the country felt uneasy under it. It had not the advantage of that prescriptive usage, that inveterate habit and opinion, which a long system of any government secures to it. The only security it had was the security of an army. A prince of the country had endeavoured to supply the weakness of his government by the greatness of his purse and his amassed treasures; but the more treasure he amassed, the more he felt the effects of his poverty; for putting money in the place of force, the consequence was, the armies were unpaid, or being but scantily paid, were undisciplined, disorderly, and unfaithful. In this situation, the young prince, confiding more in appearances than the reality of things, undertook (from motives which the House of Commons, notwithstanding all their industry to discover the circumstances, found some difficulty in making out) to attack a little miserable trading fort that we had erected at Calcutta. My Lords, he succeeded in that attempt; his success in this was easy; there happened, in consequence of it, a cruel imprisonment; not owing, I believe, to the direct will of the prince; but whenever the will of the prince is too much the law, there will always be an abuse of power by the lowest of his subjects. In consequence of that imprisonment one hundred and more of our countrymen perished miserably in a dungeon. But that is a story too tragical for me to tell, and too well known for me to mention. There happened, at the same time, a concurrence of other events, which, in the midst of that weakness at Calcutta, displayed the strength of Great Britain in another part of Asia. For some years before, upon the coast of Coromandel, there were a number of French troops; and as we looked for a war with France, the country was armed there; and, accordingly, Lord Pigot, the preserver of the British dominions in Asia, detached as strong a force from His Majesty's troops as could be collected, together with the ships on that station, to the assistance of the English at Calcutta. Accordingly, to make short of this history, the daring and commanding genius of Lord Clive, the patient and firm conduct and great ability of Watson,* the treachery of Meer Jaffier, and the battle of Plassy, gained the command of the kingdom, and all its trea-

* Admiral Watson, who co-operated with Clive in the re-taking of Calcutta.

sures : and we negotiated with Meer Jaffier for the throne of his master, upon which throne we seated him, and obtained immediately one million sterling for the Company, and upwards of £1,230,000 for individuals. In the whole, the sum collected was, I believe, near £2,230,000. From the prince of the country we obtained the town of Calcutta more completely than we had it before, and twenty-four districts adjoining ;* which was the beginning of the great territorial acquisitions which we have made in India. Many circumstances of this acquisition I pass by. There is a sacred veil to be thrown over the beginning of all governments. They have had their origin in some matters that might as well be covered by obscurity. Time has thrown its mysterious veil over them. Prudence and discretion make it necessary to throw something of a veil over the business in question, where the genius, military talents, and the fortune of this nation shone with a lustre never surpassed.

" The first step of a revolution is to give power; the next, good laws and good orders, to give it stability. I am sorry to say the principle upon which the gentlemen in India acted at that time was such, as tended to make their new government as unstable as possible; for, by the vast sums of money acquired by individuals upon this occasion, prodigious fortunes were suddenly made; and it was discovered, that a revolution in Bengal was a mine much easier worked and more productive than the mines of Potosi and Mexico. My Lords, they found that the work was not only very lucrative, but not at all difficult. Where Lord Clive forded a deep water with an unknown bottom, he left a bridge for his successors, over which the lame might hobble, and the blind might grope their way. There was not at that time any of the clerks, not a captain of a ragged band of topasses that looked for anything less than the deposition of soubahs and the sale of kingdoms. Unfortunately, this revolution became fruitful, and when Lord Clive returned to Europe to enjoy his fame and honour in this country, there arose another set of people, who thought a revolution upon that revolution might be made as lucrative to them as that was to its first projectors ; and, accordingly, scarcely was Meer Jaffier seated upon his throne, than they immediately, or in a short time, projected another revolution,† which was to unsettle all the former revolutions, to make way for new wars and disturbances, and for that train of peculation which ever since has vexed and oppressed that country.

" My Lords, there was in the house of Meer Jaffier, in his court and family, a man of a daring, interested, ferocious, subtle, bloody character, called Cossim Ali Khan, the son-in-law of Meer Jaffier, and who made no other use of his approximation to the father and his nearness of consanguinity, than to endeavour to dethrone and to murder him. The question was, where to find instruments. He was an instrument that was fit for the persons that undertook this second mercenary revolution, which could not be covered by the smallest degree of that necessity which was the general plea. This

* In 1757, the Company obtained the grant of twenty-four pergunnahs from Meer Jaffier, the Nabob, or Soubahdar of Bengal.

† See note †, *ante*, p. 677.

wicked man was not long in finding persons who observed his talents with admiration, and thought fit to employ them. After the departure of Lord Clive, Mr. Holwell, at the head of affairs, waiting for Mr. Vansittart, was considered to be only a temporary president; but he had resolved to make the best use of his time. The terrible example of the Black Hole had not cured him of his ambition. Mr. Holwell had determined upon another revolution; he had in his Council a Mr. Sumner and a Mr. M'Guire; and the business was divided into two parts; one, a Council in General; the other, a Select Committee, which they had arranged for the better carrying on of their political affairs; but (as far as I can conceive, at least) at that time the Select Committee had no power of acting without the council. Finally and conclusively, this party thought otherwise; but respecting these litigant parties I shall not, in this stage of the business, trouble your lordships with anything, but the use which was made of this Select Committee, who did, without communicating with the rest of the Council, form a plan for a new and entirely mercenary revolution.

"General Calliaud, then Major Calliaud, who commanded in the field the British troops, was a person high in station, and by his station might naturally hope for a seat in the Council. There was also a young gentleman, Mr. Warren Hastings, at that time resident at the city of Moorshedabad, at the Durbar of Jaffier Ali Khan, then the acknowledged and recognised prince, under the most solemn treaties of this country that can bind men, and for which he had paid immense sums of money, and was then paying. This Mr. Hastings was a pledge in his hands for the honour of the British nation, and the fidelity of their engagements; the resident at his court. My Lords, these are the parties concerned in this second revolution. Mr. Holwell seems to have been the first suggester, mover, and most active person in it. Mr. Summer followed him in the Council. Mr. M'Guire co-operated; but they could do nothing by themselves. General Calliaud was necessary, for force and treachery were necessary; and the return of Mr. Hastings was necessary to accomplish that treachery. General Calliaud was the general in the field; Mr. Holwell the governor, who considered himself as only in the temporary possession of power, and waited for Mr. Vansittart, but urged the revolution strongly; for if Mr. Vansittart should arrive before his plot could be finally put in execution, he would have all the advantage of it, and Mr. Holwell be considered as the secondary instrument. So far as the House of Commons have been able to discover, Mr. Holwell, conceiving this plan, wished to carry it into execution before the arrival of Mr. Vansittart. There was some obscurity as to Mr. Hastings in this point; but General Calliaud wished to keep it back. He concurred inwardly in the principles, propriety, and necessity of this revolution, but did not choose to carry it into execution until Mr. Vansittart arrived to give character, weight, and effect to the whole. Mr. Holwell, endeavouring to stimulate him forward to the enterprise, which, without him, could not be undertaken at all, General Calliaud gave him such reasons, not for postponing, but for totally abandoning it, showing the inutility,

injustice, and danger of it, as must have damned it in the minds of all good men, and ought to have damned it in his; but your Lordships will see that they persevered in this plan, and that General Calliaud endeavoured to delude the Nabob by the most direct and positive assurances of friendship and protection that it was possible to give. I enter into the circumstances of this revolution the more fully, because it exposes the mischievous license taken by the servants of the Company, in shaking off the most permanent treaty guaranteed by the Company's faith, and shows, at the same time, the art and treachery by which this revolution was accomplished. While the event stood pending; while Mr. Holwell urged it forward, and Mr. Vansittart was every day expected, there happened an event which throws much light upon the whole proceeding. Your Lordships will not, when you have heard it, blame me for dilating upon it fully and particularly, and bringing it before you, from the beginning to the end; seeing that, from this transaction alone, you will be enabled to form a correct judgment of the state of things in that country, when Mr. Hastings was sent for the purpose of reforming that state. My Lords, the business is commonly known by the name of the story of the three seals. An account of it is to be found in the Appendix, No. 10, to the first Report of the Committee of 1772.* The name seems a little equivocal. It points to what is not reported. It was an event in obscurity to most people; and amongst them, perhaps, I may say of myself, that, satisfied with the Report, I have not examined to the end all the Appendix; and it is not till within the present year that I have been made acquainted with this memorable history of the three seals. The plan was for the destruction of the Nabob's son Meeran, a youth in the flower of his age, bold, vigorous, active, full of those politics, which men who deal in usurpation are never wanting in; commanding the army at that time, about the 15th of April, 1760. The Nabob himself, exactly at what time before I cannot say, was at the camp, in which his son acted as Commander-in-chief, and General Calliaud under him as commander of the auxiliary forces of the Company. Upon the 15th of April (I am to tell it from the parties themselves, I wish I had other and better authority), the Nabob came into the tent of General Calliaud, and with looks of the utmost embarrassment, big with something that was too large and burthensome to conceal, and too difficult to be told, appeared to be in great distraction of mind. The general, seeing him under this embarrassment, kindly and generously, as became a fast and sure friend, employed (to use his own words) 'some of those kind of assurances which often open the hearts of men.' Accordingly, fortified by these assurances, and willing to unburden himself of this secret that oppressed him, he opened his heart to this new commander of his new allies, friends, and protectors. I ought to have mentioned before, that the present Emperor of the Moguls,† then the Prince Royal, or Shah Zada, escaping the confinement of his father, had put himself at the head of sundry chiefs, and, finding Bengal broke down by

* The Committee of Secresy. † Shah Allum II.

various revolutions, penetrated into the Province of Bahar with considerable force ; and there the parties were in a state of war,—whether justly or not, is not now the question. The Nabob informed General Calliaud he had received a message from the Prince, informing him he had an intention, as well he might, supposing we were as well disposed to him as we showed ourselves afterwards, to surrender himself into the hands of him, the Nabob, but, at the same time, wished for a guarantee, that the Commander-in-chief of the English forces should give him security for his life and honour, when he had surrendered himself in that manner. The Nabob stated that he had a further view: when the Prince had delivered himself into his hands, his intention was to murder him, which could not be done without the assistance of the General. In the first place, the Prince, without the security of the General, would not deliver himself up into his hands, and without his concurrence he could not be murdered. This difficulty pressed upon the mind of the Nabob. The General heard this astonishing proposition without any considerable emotion. The General was a man habituated to great affairs, versed in revolutions, and had a mind fortified for great events. He heard it without showing the least degree of abhorrence ; by no means, at the same time, accepting the proposition. He was ready to do everything for his service, but said, it should be upon such terms ' as were consistent with the honour of his country, and the sacred regard we paid to our word ;' and told him the assurance would not be given to the Prince by him, until he had consulted Mr. Holwell, who governed. This happened in the morning of the 15th of April, and on that morning General Calliaud writes to Mr. Holwell an account of this conversation and proposition.

" In the evening, General Calliaud, Mr. Lushington, Captain Knox, and Warren Hastings ; and upon the part of the Nabob, himself, his son, and the Persian Moonshy, a sort of spy in that country, having assembled, the Nabob revived the proposition, and in a cool manner. Another thing happened, of a more extraordinary kind: a person, called Conderry Dewan, or principal steward to the Prince, now the grand Mogul and sovereign under whom the Company hold their charter, had made a proposition, that, if the command of a very large and considerable territory, that was held by his master, was assured to him, together with the payment of a lac of rupees, he, for those considerations, would deliver the Mogul alive into their hands, if he could ; if not, he would murder him. This proposition was made to the English commander: what discourse took place upon it is a little uncertain. Mr. Hastings is stated to have acted as interpreter. General Calliaud agreed to it without any difficulty. The instrument was drawn by the Persian Moonshy in the place, for securing to the party the reward of this perfidious and murderous act. Accordingly, first the Nabob put his own seal to it ; the Nabob's son, Meeran, put his seal to it ; the third was wanting, and Mr. Lushington was sent for, near half-a-mile, to apply it. The three seals were thus put to it ; and the transaction is known as the business or affair of the three seals.

"My Lords, this business of the three seals did, by some means or other, come to light. It is not quite fully explained; but suspicion was bred in the minds of some persons by means of Mr. Holwell that came home. The story was conveyed to the ears of the Court of Directors, and they wrote a letter, under the date of the 7th of October, 1761, which was a little more than a year after this extraordinary transaction, stating that, in conjunction with the future Nabob, General Calliaud had signed a paper, offering the reward of a lac of rupees for the assassination of the Shah Zada, which paper was offered to the chief at Patna, for him to sign, but which he refused doing. Accordingly, the East India Company ordered a strict inquiry to be made into this, which was considered as a most infamous transaction; but the East India Company, who did their duty with great manliness of conduct, did it in a manner that could not produce any serious mischief to the parties who were guilty. They directed the very persons concerned in these transactions to do the best they could to try one another. I entreat your lordships' attention to the manner in which this collusive business was conducted. This matter came to be examined before the Council upon the 4th of October, 1762. The Council then consisted of Peter Amyatt, William M'Guire, Warren Hastings, William Hay, and Hugh Watts. Mr. Hastings, having accomplished his business as resident, had taken the seat to which his seniority entitled him in the Council. But here the difficulty arose, that Mr. Hastings, who is represented to have acted as interpreter in this business, was not a fit person to sit as judge in this affair. It likewise appeared, that there might be objections to some of the witnesses: for Mr Lushington had put his seal to the transaction, and had made an affidavit at Patna that he had so done, and that Warren Hastings was interpreter upon that occasion. The question was, how to get the interpreter out of his interpretation, and put him upon the seat of justice. The manner in which it was effected is curious; it was thus: Mr. Lushington, who by this time was got completely over, as he himself tells you, was, by conferences with General Calliaud and Captain Knox, and by arguments and reasons by them delivered, persuaded to unsay his swearing, and declare he believed that the affidavit which he had made before, and while the transactions were recent, or nearly so, must have been made by mistake—that he believed it was not Mr. Hastings but he himself that interpreted. Mr. Lushington, therefore, completely loses his memory, and accepts of a memory given to him by persons who were a party in the transaction; and Mr. Hastings is put into the condition of a judge, and declared not to have been the interpreter upon that occasion. Mr. Hastings is examined; but, what is most extraordinary,—and your lordships will look at it at your leisure, and consider it as a pattern in cases of this kind,—he does not recollect; he thinks he was not there; he thinks if he was there as interpreter, he could not forget it. And, upon this inaccurate memory of his, not venturing to say positively he was not the interpreter and not there, Mr. Hastings is discharged from being an accomplice; removes from the bar, and takes his place upon the seat of justice! General Calliaud comes

forward to make his defence. Mr. Lushington was taken off his back; but one person remained troublesome to him; and that was Captain Knox; but Captain Knox was made to say before Mr. Lushington or some other witness, 'that it was a pity so fine a young fellow should fall in that manner,' meaning by that 'fine young fellow,' the Prince Royal, the descendant of Tamerlane, from whom the East India Company derive their charter. He was dissenting, and therefore some use is made of his evidence. The defence of General Calliaud was this, that he was apprehensive the Nabob was alarmed at the violent designs formed against him by Mr. Holwell, and therefore to quiet his mind with an opiate, made up of murder and treason, (it must be an odd kind of mind to be quieted by such means,) to quiet his mind, and to show how ready he was to go all kind of lengths with him, and to give up body and soul to him, he put his seal to this extraordinary act; he put his seal to this wonderful paper. He stated he was of opinion that nothing at all would happen from it; that no such murder would be committed, whatsoever the intention of the parties were; that such a thing was not likely to take place; and that, in effect, he had said so in a letter, which it happens very unluckily was written the day after the business of the seals. In that letter he says, 'I think nothing will come of this matter, but there could be no harm in trying.' He found this leaning against him—this experimental treachery; and he says the object of the murder appeared to him good enough to make a trial of; at the same time he was afraid nothing would come of it; and in general the whole point of it was, that his mind was clear—'my hands are guilty, but my heart is free.' He conceived it was very improper, undoubtedly, to do such an act, if he suspected anything would happen from it. He let the paper out of his hands, and put it into the hands of murderers. This was brought forward as the extenuation. It was all done in the purity of his heart! This is the perpetual plea that your lordships are to hear of, and will hear of for ever. He thought it necessary to quiet the mind of the Nabob; to give him perfect ease from the fears of Mr. Holwell. From these motives he did the act so abhorrent from his nature, and of which he says he expressed such abhorrence upon the morning of the 15th. Mr. Hastings is then called upon to state, whether the Nabob was not informed of the design. Mr. Hastings does not, however, recollect anything of the matter; he certainly seems not to think he ever mentioned it to the Nabob, or the Nabob to him; but he recollects speaking to some confidential secretaries of the Nabob, and making some inquiries of them, but opposite inquiry upon the subject he does not recollect that he made. And further this deponent sayeth not. Now come the Court of Directors, that instituted this prosecution with such vigour. I beg leave to state, that the Nabob, one of the parties to the design, was at that time a sort of prisoner, or an exile, at Calcutta. His Moonshy was there, or might have been there; who, though a party to this transaction, was never called to an account for it, in any sense or degree; but the Court of Directors, (who are so easily satisfied, though so ready to condemn,) at the first propo-

sition, were ready afterwards to acquit, and not only to acquit, but to approve the measure; they at the same time honourably acquit the party accused, and upon the same grounds commend his fidelity and zeal for their service. Such, my Lords, is the whole story of this campaign of the three seals. The great use and end of this exposition is to show your lordships that there were other trials and other acquittals than those made by the collusive plan of the Directors. Those are the proceedings upon which I meant to illustrate and show the horrible condition of India; to let you see in one point of view in what a dreadful and horrible condition that country stood in 1761, when Mr. Hastings began his political campaign.

"My Lords, the second revolution the story of the three seals interrupted for a while; though there was a continuity of the business, the affair of the seals being intended to accomplish one very necessary part of the plot, which was to lull the Nabob into a perfect security with regard to the designs that were carrying on against him. Now, my Lords, the plan proceeds. There was another demurrer: business of this kind is not easily got through: there was the Nabob's son to remove; and to carry that revolution was not very easy. Houses are strong that have eldest sons grown up fit to command armies. The plan about the month of July began to get into very great ripeness and forwardness: General Calliaud urged it forward, and Mr. Vansittart being hourly expected, a bargain was to be made with that bold, desperate, designing man, Cossim Ali Khan, a man who aimed at every thing, and scrupled at nothing to obtain what he aimed at. His point was to be appointed during the life of Jaffier Ali Khan (with a design of murdering him too) his lieutenant; which lieutenant, according to the usage of that country, totally supersedes the authority of the chief magistrate, and renders him a cypher in the lieutenant's hands. The command of his troops, and the whole administration of the country, is given to the lieutenant. This was a part of the plan of Cossim Ali. He was, after the succession to the lieutenancy, to be named successor to the Nabob. There were, however, several children in the way of that succession. At this period the most extraordinary event happened that I believe is recorded in history. The eldest son of the Nabob, the Prince Meeran, lying asleep in his tent, suddenly, without any one knowing it, without any alarm or menace even in the heavens being heard, without any one being hurt or alarmed in the camp, is killed with a flash of lightning! Thus, the gordian knot is broken. This Prince dies of this flash of lightning, and Mr. Lushington comes in frightened, with his hair erect, to General Calliaud, and tells him, in the utmost alarm, of the circumstance that was afterwards to give so much pleasure! The General was seized with the fright, fearing the army should mutiny upon the death of their chief. It was contrived as never anything was contrived before. The Prince was killed; none of his attendants were alarmed; not the least omrah knew it. The fact was concealed by the ability, good conduct, and dexterity of Colonel Calliaud, for seven days together, till he had led the army out of danger. It was a lucky, providential, and most

useful flash of lightning! My Lords, there were at that time some of the East India Company's people at Calcutta who were very schismatical in this business. I do not mean to charge or prove that fact as criminal, though there were those who did raise and disseminate such notions.

"As soon as this affair is over, then there happens another interposition of heaven. Mr. Vansittart comes upon the scene; he was rather debauched by the amazing flood of difficulty. In a few days they send for Colonel Calliaud: Mr. Vansittart's objections vanish in an instant; everything is easy; the General agrees to take the part they saved for Cossim Ali Cawn; and Mr. Hastings and they open a treaty with him, conclude it, and leave the management to two persons, Mr. Holwell, and a person whom we have heard of so often called Coja Petruse, or the respectable Peter. Mr. Holwell and the Nabob settled the preliminaries first; and the whole is afterwards conducted by him. An effective plan is laid, and the revolution is accomplished. Cossim Ali Cawn was to have the succession and the present lieutenancy; everything is put into his hands, and he is to make large concessions, which you shall hear of presently, to the Company. Cossim Ali Cawn proposed a good supplement to the lightning flash; he proposed to Mr. Holwell to murder the Nabob; but Mr. Holwell was a man of too much honour to suffer that; he flew out in a minute; and declared the whole business should stop, unless the affair of the murder was given up; but, at the same time, if he gave the Nabob over to him, and put his person, his treasures, and everything else into his hands, he might have had no great reason to complain, if he was to be left to the execution of his own projects in his own way.

"My Lords, you will have an opportunity of observing the progress of these plots. There is one thing that has constantly and uniformly pervaded the whole policy of the Company's servants; and which they declared to be the principle of their actions at that time: first to take care of the public interest; next of their own: first to take care the Company got an enormous bribe, and, under the shadow of that enormous bribe, to secure all the little paltry presents and emoluments to themselves. And, accordingly, there were three rich maritime provinces, or nearly so, Burdwan, Midnapore, and Chittagong, to be severed from the soubaship, and given to the Company. The manner of the stipulations it is not necessary to trouble you with. The treaty was signed, sealed, and executed by these parties at Calcutta, with the greatest possible secrecy. The lieutenancy was secured to him; and he was likewise, as a secret article, to give the sum of £200,000 as a reward to the gentleman for serving him so effectually, and their country as well. Upon these stipulations, Mr. Vansittart (Mr. Hastings being then at the durbar, and having everything prepared and smooth,) went up; there was a commission of delegation, consisting of Mr. Vansittart and General Calliaud. They went up to the seat of government of the country, to congratulate and to pay their devotions to the Nabob,* upon the coming of a new governor into the

* Meer Jaffier.

place, and to give assurances of mutual friendship. They went up into the country, after securing the country below; and they first persuaded the Nabob to deliver over his power, so negotiated for, into the hands of Cossim Ali Khan. They proposed this, but the man was frightened out of his wits at it, and asked, 'What is it he has bid for me? I will give half as much again to save myself as he has offered; pray let me know what my price is.' This he desired in vain. They were too firm and faithful to their engagement. They resolved he should be put into the hands of Cossim Ali Khan. The Nabob thought that more dangerous than giving up the whole: he surrenders up the whole—they grasped at it; he throws himself into a boat; he would not stay an hour; but goes down to Calcutta, to leave his blood there if we would take it. The present, then, was a sum of £200,000, or thereabouts. The expense of the revolution is stated somewhere about that sum; a little more or less; it is no matter. This money seems to be the leading principle: though a little, low principle, as it is, it seems to be the most active. The heart is not the largest part of the body, but it sets the rest of the machine a-going. Here, my Lords, ended the second revolution in that country, effected, indeed, without bloodshed, but with infinite treachery, and with infinite expense to the Company.

"Cossim Ali Khan had scarce got upon the throne, which he had mounted by our public spirit and his iniquity, when he began to fortify himself against those who were, or could be, the donors of such fatal gifts: he removed from Moorshedabad higher up the country, to Mongheer, in order to be more out of our view: he kept his word pretty faithfully to the Company; and though he had no money, he gave obligations, by the name of teeps, a term with which your lordships will become intimate in the progress of these transactions. By this means was the whole of this business conducted. He began directly to rack and tear the provinces left to him, to get as much from those provinces as should compensate him for the revenue of the great provinces he had lost. Accordingly, he began a scene of extortion, horrid, nefarious, and without example, upon that country: he is one of the precedents which Mr. Hastings, in his defence at the bar of the House of Commons, thought fit to adduce as those that would justify him in the conduct he pursued. This Cossim Ali Khan, after he had racked and acted like a tyrant, fell upon the country. My Lords, there was a person called Juggut Seet, a banker, such a one as was never heard of in the world before; his house was similar to the Bank of England: their correspondence extended all over India, and it is believed they were not worth less than seven or eight millions of money. This house was a prey fit for a tyrant; but Mr. Holwell, who ought to have been security for all the property delivered over to that man, said of this house, that its receipts were to be delivered over to Satan to be buffeted. He predicted it, and frequently mentioned it, and this it was that caused the misfortunes to fall upon them. He had chosen a Satan to buffet them, who did indeed buffet them, both by robbery and by the murder of the principal persons of that house. There was such a scene of ferocious tyranny, such a destruction

and cutting up by the roots of public credit in that country, as was never before exhibited. There was, my Lords, another great person called Ramnaram, who had received from the English the most positive assurances of friendship and good faith; notwithstanding which, Mr. M'Guire delivered him up for five thousand gold mohurs, something more than £8,000 sterling —delivered him up to be imprisoned, to be robbed, to be tortured, and finally, to be murdered by Cossim Ali Khan, our government looking on at the scene. I had almost omitted to mention a Mr. Motte, who was then a friend of Mr. Hastings. There was a person there, a Vackeel, in the greatest confidence with him; he strove for his house and property. There was some scuffle between them; one attempted to seize, the other to retain. They made a complaint to the Nabob, and he ordered this man, for this very scuffle about his property, to be blown off from the mouth of a cannon. I am not to tell you all the villanies of this tyrant that sat upon the throne of Bengal. The government never endeavoured to correct him in the exercise of any one of his tyrannies.

" My Lords, there is one circumstance that comes across me here, which will tend to show another grievance that afflicted that country, and afflicted it long, and was one of the causes of these chief disasters. And I doubt whether it is so completely extirpated, that some parts of its roots may not remain in the ground at this moment; that is, commerce. In order to possess themselves of its riches, every country in the world was bringing that country to ruin. The Company's servants used their dustuck. The Company had large privileges under the dustuck, or permit, for their goods to pass without duties in the country. The servants of the Company used it for their private trade. Whilst the natives of the country were powerful they used it with moderation; but as soon as the power came into their hands, their trade was what you would expect of the trade of a man who is an emperor; it was an imperial trade; it was more like robbery than trade: they appeared everywhere, they sold at their own prices to others, and they forced people to sell to them at their prices; they appeared like an army going to pillage people under the pretence of commerce, rather than anything else. They superseded the magistracy, that disappeared everywhere before them; in vain the people applied for protection from the English merchants going through the country, and ravaging them worse than Tartar conquerors. My Lords, Mr. Hastings did the best he could to prevent it.* He was afraid, if this went on, there

* Mr. Vansittart was at that time President of the Council, and he and Mr. Hastings did all in their power to check the violent enormities of the Company's servants, but unsuccessfully, as a large proportion of the Council were deriving vast private emolument from them. Hoping to arrange the matter with Mir Cossim, Mr. Vansittart, accompanied by Mr. Hastings, proceeded to Mongheer, where, on the 20th November, 1762, he concluded terms with the Soubahdar, by which the English were to be allowed to carry on trade, not altogether free from duty, but subject to very low rates, and much below those of other traders. The rest of the Council, however, in 1763, refused to confirm these regulations, and disputes again arose from the Company's servants, in consequence of persisting in their unjust claim of exemption from all tax. Vexed with

would be little left to him for confiscation or extortion, in that country which was governed by Cossim Ali Khan, was ravaged by dustucks in the upper provinces, was torn to pieces by his rapacity in the lower. This brought on the treaty of Mongheer, which was to give them some relief against this cruel, cursed, and oppressive trade, which was worse than the ravages of the sovereign. Mr. Vansittart made a treaty, known by the title of the treaty of Mongheer, which tended very much to repair the trade and put it in a just and proper way. As it ever was believed in that country that rapacity and trade could never be superseded by anything but bribery, and nothing but corruption could be superseded by oppression, in that way the select committee made a treaty without the rest of the council—some of the parties were advocates for the treaty; others were advocates for the trade, as it is called. It was the universal opinion that the trade was bought by a great sum of money, and there are evidences of that sum of money which was stated to be paid for it; but it never has been investigated to the bottom, as it ought. We have upon our records the sum of seventy thousand pounds that was paid to the persons concerned in that negotiation. The rest were exceedingly hurt, seeing they were not benefited by the negotiation, and were losing by the trade. We have it on our journals. At the same time their trade was proscribed, but the negotiators were not proscribed; and Mr. Vansittart and Mr. Hastings were not subject to those general regulations.

"In the disputes which this settlement produced, undoubtedly Mr. Hastings and Mr. Vansittart were upon the right side—I put the motives and the secret history out of the case';—they were perfectly upon the right side; and they showed to a demonstration the mischiefs of this trade. However, as the other party were strong, and did not directly let go their hold of this great advantage, first there were dissensions, then murders; various complaints arose at Illahabad, and Cossim Ali Khan was driven to the wall; at the same time having made what he could of his situation; and war broke out at last between us. How did it break out? This Cossim Ali Khan, whom Mr. Hastings had put upon the throne of Bengal, signalised his first acts of hostilities against the faith of treaties, the rules of war, and every principle of honour. This pretended emperor, that was put upon the throne by Mr. Hastings, knowing his character and disposition, and knowing very well what such a man was capable of doing; this man, my Lords, massacred the English wherever he met them. There were about two hundred of the Company's servants, or their dependants, slaughtered with every circumstance of the most abominable cruelty. Their limbs were cut in pieces. That tyrant whom Mr. Hastings had set up, cut and hacked the limbs of the British

such tyranny, the Soubahdar adopted the plan he had often threatened, and abolished all transit duties, and threw open the trade to all merchants alike; but this was highly displeasing to the Company's servants, who insisted on all other traders being subject to duty, and claimed the exclusive privilege of exemption for themselves. But Mir Cossim refused to yield; and violent animosity, in consequence, ensued between the two parties, which shortly resulted in war and the deposition of the Soubahdar.

subjects in the most cruel and perfidious manner. He threw them into wells, and polluted the waters of the country with British blood. Immediately war was declared against him in form. That war set the whole country in a flame, and then first began to appear other persons upon the scene, with whose business your lordships will find yourselves deeply concerned. It was necessary, then, for another Nabob to be put up. Another revolution and war was resorted to. But the man* who had been dethroned for his tyranny, for his incapacity, for the numberless iniquities he was said to have committed, and for his total unfitness and disinclination to all government, this very man they look up to again to put him upon the throne, from which two years before they had deposed him. This revolution was not made without being brought forward according to the usual order of procession, in which the youngest walks first. First came the Company. And the Company had secured to it those provinces that Cossim Ali Khan had given, rather by way of mortgage than anything else, in perpetuity, or rather by way of donation, to the army and navy, that had little to do in this affair. They taxed him—what sum do you think? They taxed him no less, with that empty and undone treasury, in that harassed country, than £500,000 for their private emolument. For the consideration of this iniquitous trade and its abuses, that sum was given to individuals in this revolution. Now come the Company in properly. Upon hearing this they were all in a flame. The Directors were all on fire at this donation to the army; and declared they would give it no support or countenance whatever. You will see in the course of this affair what countenance and support they did give it. In the mean time, the gentlemen did not trouble their heads much about the Company, but went on to exact and got this £500,000 as soon as they could. This was the third revolution. But, for this amazing sum, this poor miserable prince was dragged from Moorshedabad to Calcutta, and back again from Calcutta to Moorshedabad, the sport of fortune, and the plaything of avarice. This poor man was again put upon the musnud. He was put up as a pageant upon his throne, and no authority was left him but to give gifts and donations; that is the *primum vivens* and the *ultimum moriens* of these unhappy princes; that is the only thing left. One would have imagined, my Lords, that the English Council would have been satisfied with what they had accomplished; that they would have remained quiet from war; and that the money that was extorted upon this occasion would have been sufficient. But no—they wished to have something more; they did not like the restitution; and therefore they set about deposing the monarch they had put upon the throne. Cossim Ali Khan was carrying on a fierce war against him. They could not, with a good grace, depose the man they had so recently set up; —but what did they do?

"My Lords, there were at this time at the court of the soubah, two persons of great consideration in Bengal, of whose names you will hear; the principal was

* Mir Jaffier.

Mahomed Reza Khan,* a man of great rank, much authority, understood piety in his own religion, great learning in the law, of the first class of nobility in the country, at the same time dreaded, abhorred, and feared beyond anything else by the Nabob, who thought him much better entitled to the soubahship for his qualifications, than himself: though, upon the other side, there was another of the natives, a chief man among the Gentoos, known by the name of the great Rajah Nuncomar. He was of the same rank among the Gentoos as Mahomed Reza Khan was among the Mahomedans. Being a Gentoo, the Nabob knew that he could not aspire to the office of soubahdar; for that reason he appointed him to be his naib, or deputy; whilst he was naturally inimical to Mahomed Reza Khan, whom he dreaded, fearing that he might find a flaw in his title. Of this competition the English Council, in whom all the efficient power resided, were resolved to profit. The office was put up to auction. Mahomed Reza Khan bid largely; Nuncomar bid largely; it was not money, but the merits of Mahomed Reza Khan, who was deemed more likely to keep the Nabob in a fitter condition for future exactions; but with a bribe of £220,000 (a large sum of money), he tempted them to invest him with the naibship. Nuncomar fell below his price; he fought the battle as fast as he could—it was eagle to eagle—as fast as he bid upon one side Nuncomar bid upon the other; but Nuncomar was pushed to the wall; some received his money, others received the other's money, and a deputation was sent to the miserable Nabob to dethrone him; they force Nuncomar, his only support, from his side, for the purpose of putting Mahomed Reza Khan there. This split the Council into factions; the smallest party adhered to Nuncomar. Jaffier Ali Khan clung, as to the last pillar of his support, to Nuncomar; finding there was a deputation going on to sell him again, he strove to hold Nundcomar, and died in the struggle. His gigantic form, overwhelmed with disappointments, was driven into the jaws of death; he fell at once the miserable victim of the successive changes and revolutions, which had been brought about through versatile rapacity. Thus fell that man of gigantic form. The same deputation continued. They would not prefer the son;† but a son of a harlot they preferred to another child, because, not having a good title, he would be in a state of greater dependence upon them. My Lords, I know of no other reason for it, but they would never completely recognise him until he was obliged, clinging to them as his father did, to renounce Nuncomar, whom they tore from his side and carried down to Calcutta. That man having the weakness to become the first informer, was the first in point of person whom they fell upon, and he was afterwards charged with having been guilty of forgery, and hanged by corrupt judges. After Cossim Ali Khan had been defeated by the very great merit of our commanders,‡ who showed as much military conduct as ever was known, he

* See note, *ante*, p. 134.

† *I. e.*, the rightful heir, the son of Mir Jaffier's eldest son, who had been killed, as it was said, by lightning; *ante*, p. 815.—See note, *ante*, p. 677.

‡ Mr. Burke alluded to the victory of Geriah, gained by Major Adams, after a most

fought every inch of his way, and carried with him out of the country three millions sterling, in money or in jewels. Cossim Ali Khan, like a lion, turned his face upon his pursuers, till he went along the frontiers, and drew with him the Soubah of Oude. The Mogul entered on one side, Bulwart Sing, the Rajah of Benares, entered at the other. After various changes of fortune, that which began in the treachery of the civil service was redeemed out of it by the hands of military merit.

" My Lords, there are many examples of the same sort; but the Company hearing of all these changes; hearing and knowing such an incredible body of perfidy; that there was a general market made of the country, and of the people of the country; that the flames of war were spread from country to country; and that the rapacity which originally gave rise to it was following it in its progress; the Company, foreseeing that unless a stop was speedily put to the mal-practices of their servants, their own existence would be endangered; and feeling themselves sinking by the conquests obtained, found it necessary to come to some settlement. Having had disputes with Lord Clive, they came to a compromise with him, and sent him out to that country in the year 1765, in order that by his name, credit, authority, and weight, he might rectify the innumerable abuses that had prevailed, particularly that fundamental one, the abuse of presents; for all those bribes and rewards had not the name of condition or stipulation, but came in the shape of presents, or gratuities given afterwards. The parties might give them what names they pleased, but they were the donations of misery to power, the generosity of wretchedness to oppressors, and left neither property nor security to any person in the country. Lord Clive went out with new covenants. And this makes the great part of the history of Mr. Hastings's crimes, which were the origin of the whole. Lord Clive went out to put an end to them, though he himself was a large receiver of them. I think they chose well. His name and authority would necessarily have great weight. They sent him out with amazing powers, such as no servant of the Company ever had before. I do not pretend to uphold the totality of his conduct; some measures he took cannot be defended; but I do say, that the plans he laid down, and the course he pursued, were in general good and well-imagined, and that he settled great foundations if they had been adhered to. For, my Lords, he first took strong measures, being to put an end to a great many abuses that prevailed in that country: then he went up into it, and did, for a military man, an act that will ever have great military merit; he put a boundary to the aspiring spirit of the rulers of the country; he circumscribed them in their limits, and said, Here at the river Cawumassa is the period of the British dominions. He secured this to the quiet of the country. He first settled the Soubah of Oude, who had been driven from

determined resistance. Mir Cossim, after his defeat, took refuge in the dominions of Sujah Dowlah, Nabob of Oude, and concluded an offensive and defensive alliance with him and the Mogul Emperor, Shah Allum; but the allied forces were completely destroyed by Major Munro, at the battle of Buxar.—See note, *ante*, p. 676.

his dominions by the ability of this commander. He did as he pleased, and he astonished all Asia. He reinstated this enemy of the country after having defeated his arms ;* by which he did more to quiet the minds of the people of Asia than by anything that had been done before. The Mogul was at the head of the Mussulman religion—the head, likewise, of the empire ; a name honoured and esteemed even in the midst of those ruins. He caused him to be recognised by all the parties concerned ; he obtained the Dewanny, which is the grand period of the constitutional interest of the Company in the affairs of India ; he quieted the minds of the people: he gave to the settlement of Bengal a constitutional form, and a legal right, acknowledged and recognised now, for the first time, by all the princes of the country. He had the care, and he took care, of Bulwart Sing, the Rajah of Benares, who took our part in that war. As the country had before granted the superiority of that province to Bulwart Sing, which the Company ordered to be re-settled, he secured to him the quiet independence given by his former masters in that part of the world.† For the rents which ought to be paid to the Vizairrut, Bulwart Sing paid various sums to the amount of £150,000. From the beginning we have been great gainers. This was secured by Bulwart Sing. All our enemies were quieted by the restitution of the Nabob of Oude, and all Asia was conciliated by our settlement of the king to whom we gave it. The unhappy fugitive prince was now deposed, and was flying about, the sport of fortune. He gave him a place of residence in an honourable way, and a revenue able to support him; and he received the various powers, which made a considerable share of regal authority. They gave the country peace ; and as to the Company, they took the business exactly in the way it was best for them: they took not the viceroyalty, as Mr. Holwell would have forced them to do; they left the government of the country in the hands of the Soubah, a viceroy, to administer justice under the forms of royalty. The Company took a much less invidious thing, the Dewanny, the great stewardship, which gave them the whole management of the revenue, and made them appear not the oppressors, but the protectors, of the people. This was the office they took. It had all the real power, without the invidious oppression of it; it gave them everything, as the Nabob was now falling into the mere state of royalty, or viceroyalty, stripped of the power of maintaining any troops; but we maintain them for him by contract, to preserve the dignity of the Court, the prejudices of the Mahomedans, and particularly for their great nobility, that suffered more by the loss of all employments; but the revenue that was left him was only four or five hundred thousand pounds a-year.

* See note *, *ante*, p. 676.

† Shah Allum, after the Battle of Buxar, had proposed to yield to the English the territory of Bulwart Sing, in return for their aid in establishing him in Allahabad and the rest of Sujah Dowlah's dominions; but by the terms subsequently arranged by Lord Clive, the Zemindar of Benares was allowed to retain his position dependent on the province of Oude ; and the Emperor engaged not to molest him.

On these happy foundations the Company claim and enjoy more securely the benefit of the revenues. They put the collection of them into the hands of Mahomed Reza Khan, who filled the office of Deputy-soubah when Lord Clive arrived, and whom he did not displace.

"Lord Clive did not stay long enough in that country to give consistency and stability to the settlement he made;* and, accordingly, the man that followed, though I believe he was the honestest man that ever served the country, I mean Governor Verelst, had not weight enough given him to poise the country, though there were not such grievances as entirely subverted the estates of great and ancient families, and entirely changed the settlements of the people. But this made it necessary for the Company to send out a commission in 1769, of Mr. Vansittart, Mr. Ford, and Mr. Scrafton. The unfortunate fate of these gentlemen is known to all the world. The grand thing the Company ordered these supervisors to do, was to give directions to the servants of the Company, that they should none of them, upon any account whatever, take presents. As soon as it was known that the Commissioners unfortunately perished, as every one knows they did, the Company were preparing to send out another commission,† for the rectification of those grievances, when the Parliament thought it necessary, from the full sense they had of the magnitude of the evils, to take the subject into their hands; to appoint another commission in a parliamentary way, of which Mr. Hastings was one, for the better government of that country.‡ Whether Mr. Hastings was appointed upon account of his local knowledge, and the number of friends he had there, I cannot say; but soon after the deputation for the restoration of Jaffier Ali Khan, and before Lord Clive arrived, he came to England: and here he staid, attending to his own interests; and he negotiated so successfully, that he went out to India with great powers. Indeed, when this government was settled, Moorshedabad still continued the seat of the native Government, and of all the collections. The Company were satisfied with putting a resident at the Durbar, or Court of the Nabob, as a control over the native collector.

"My Lords, I should not have given you this trouble, if it had not been necessary to possess you clearly with the progressive steps by which the Company's government was established, and superseded the native government. The first step that was taken was the appointing supervisors in every province, as a control over the native collectors. The next was to establish a general council of revenue at Moorshedabad, to superintend the deputy great steward, Mahomed Reza Khan;§ and, lastly, in the year 1772, that

* He left in February, 1767; and Mr. Verelst, a member of the select Committee, succeeded him as President.

† See Mr. Burke's Speech on the Bill to restrain them from so doing, *ante*, p. 482.

‡ Under the provisions of Lord North's India Act, the Governor and Council of Bengal were appointed by Parliament; and Mr. Hastings was appointed Chief Governor, in 1773.

§ See note, *ante*, p. 135.

council was, by Mr. Hastings, overturned; the whole control was brought down to Calcutta; Mahomed Reza Khan, by order of the Company, was suspended,—turned out, in fact, from all his offices; and turned out for reasons and upon principles which you will hereafter see; and, at last, the dewanny was entirely taken out of the natives' hands in the first instance, and settled in the Supreme Council of Presidency at Calcutta. And so it remained until the year 1781, when Mr. Hastings made another revolution, and took it out of the hands of the Council-General, which the Acts of Parliament and the Acts of the Company had invested with it, and put it in a subordinate council, entirely dependent upon himself, and separate from the public authority.

"Thus, my Lords, you have before you the whole of these revolutions. I have stated them with perspicuity, and the grounds and principles upon which they were made, and the abuses that grew out of them one by one, as they happened; as every revolution produced these abuses. You see the native government vanishing away, until it was reduced to such a situation, as to be fit for nothing but to become a private perquisite in the hands of Mr. Hastings, to be granted to whatever peculators he pleased. That government having vanished, the English government succeeded, in which Mr. Hastings, first as President, appointed by the Company, and afterwards as Governor-General, nominated by Act of Parliament, had the principal share. It is for crimes committed in these two stations that he now stands before your Lordships.

"My Lords, after passing over that vast period, that troubled period, between the year 1760 and the settlement made in 1774, and having placed the government in Mr. Hastings's hands, we are to consider how he comported himself in that situation; and the first thing for us to have will be some test by which to try his conduct; for Mr. Hastings will conceive that a British governor, sent abroad, is sent to provide for the good of the people, as much as possible, in the spirit of the laws of this country, on which, in all respects, their conservation, their happiness, and their prosperity depend. These are the principles on which he is to account for his conduct. The rule by which your Lordships are to try him is this: what a British governor, acting upon British principles, in such a situation, should do, or forbear; whether he has done, or whether he has forborne, in the manner a British governor ought to do and to forbear. If he has done his duty, he will be honourably acquitted. From this country he goes to another for principles and examples. But this country will force him to be tried by its laws. In this country the law is not acquainted with that known crime called misconduct in office. It may not be tried in inferior courts. Here you are competent to anything. If you are competent to proceed, you are competent to the knowledge of the offence. And here, my Lords, I am directed to state to you the principles on which Mr. Hastings declares he has conducted his government, which he has asserted, first in several of his letters to the East

India Company, and next in a paper called his Defence,* delivered to the House of Commons. I am desired to say, that, if those grounds of defence are good, undoubtedly there is a great alleviation of his guilt, if not a taking of it entirely away. If those grounds are not good, we claim to contend, that Mr. Hastings, being a British governor, ought to govern as a British governor, not by British forms; for if there ever was a case in which 'the letter killeth but the spirit giveth life,' it is this case: we call for the spirit of equity, of justice, of protection, of lenity, which ought to characterise every British subject in the exercise of power; and you know no other principles. And should he be tried, which he has desired to be in his Defence, and should say, that actions, if tried in Asia, do not bear the same moral qualities that they would do if tried in Europe, I am called upon positively to deny the position. By saying so, we are to let you know, that this gentleman has formed a geographical morality, by which the duties of men in public and private stations are not to be governed by their relation to the great Governor of the universe, and by their relation to one another, but by climates. After you have crossed the equinoctial line, all the virtues die, as certain animals do. Against this geographical morality I do protest, and declare, therefore, that Mr. Hastings shall not screen himself under it, because I trust that not a great many words will be necessary to show your Lordships, that the laws of morality are the same everywhere; and that actions that are stamped with the character of peculation, extortion, oppression, and barbarity in England, are so in Asia, and all the world over. This I contend for, not in terms, but in substance. Mr. Hastings comes before you, he says, not as a British governor; he says he comes as a soubah, a bashaw with three tails; he says, 'I had arbitrary power to exercise, and I exercised it. Slaves I found the people, slaves they are; they are so by their constitution; I did not make it for them; I was unfortunately bound to exercise it, and I did exercise it.' This, my Lords, is the plea in bar; but I trust and hope you will not judge him by laws and institutions which you do not know, but by those you do know and understand, and under whose power and authority Mr. Hastings went from England. When your Lordships shall hear what we have heard, and know what we have known, I am confident that you will join with the Commons in their detestation of such doctrine as that of an English governor desiring to be tried as a British subject, and yet declaring that he governed upon the principles of arbitrary power. As this is boldly maintained, and as, no doubt, his conduct was correspondent to those principles, those principles and his conduct are to be tried together. My Lords, will you receive this basis of all his defence? It falls to my lot to show, whether or not a power, or powers, of that nature, ever were delegated to him by any Acts of Parliament. 'I know,' says he, 'that the acceptance of the sovereignty of Benares, &c., is not acknowledged or admitted by any Act of Parliament; and yet, by the particular interference of the majority of the Council, the Company is

* Commented on by Mr. Sheridan, *ante*, p. 111.

clearly and indisputably seized of that sovereignty. That if, therefore, the sovereignty of Benares, as ceded to us by the Vizier, have *any rights whatever* annexed to it, (and be not a mere empty word without meaning,) those rights must be such as are held, countenanced, and established by the law, custom, and usage of the Mogul empire, and not by the provisions of any British act of Parliament hitherto enacted.' I trust, my Lords, that you will assert your power over British subjects, asserting or exercising any authorities under any man whatever, whenever he does not exercise them under the sanction of the law. He then proceeds with his defence, and says, ' *Those rights* (and none other) I have been the involuntary instrument of *enforcing*. And if any future act of Parliament shall positively, or by implication, tend to annihilate those very rights, or their exertion, as I have exerted them, I much fear, that the boasted sovereignty of Benares, which was held up as an acquisition almost obtruded upon the Company, against my consent and opinion, (for I acknowledge that *even then* I foresaw many difficulties and inconveniences in its future exercise,) I fear, I say, that this sovereignty will be found a burthen instead of a benefit; a heavy clog rather than a precious gem to its present possessors. I mean, unless the whole of our territory in that quarter shall be rounded, and made an uniform compact body, by one grand and systematic arrangement; such an arrangement as shall do away all the mischiefs, doubts, and inconveniences (both to the governors and the governed) arising from the *variety* of tenures, rights, and claims, in all cases of landed property and feudal jurisdiction in India; from the informality, invalidity, and instability of all engagements in so divided and unsettled a state of society; and from the unavoidable anarchy and confusion of different laws, religions, and prejudices, moral, civil, and political, all jumbled together in one unnatural and discordant mass. Every part of Hindostan has been constantly exposed to these and similar disadvantages ever since the Mahomedan conquests. The Hindoos, who never incorporated with their conquerors, were kept in order only by the strong hand of power. The constant necessity of similar exertions would increase at once their energy and extent, so that rebellion itself is the parent and promoter of despotism. Sovereignty in India implies nothing else; for I know not how we can form an estimate of its powers but from its visible effects—and those are everywhere the same, from Cabool to Assam. The whole history of Asia is nothing more than precedents to prove the invariable exercise of arbitrary power. To all this I strongly alluded in the minutes I delivered in Council, when the treaty with the new Vizier was on foot in 1775; and I wished to make Cheyt Sing independent, because in India dependence included a thousand evils, many of which I enumerated at that time, and they are entered in the 9th clause of the first section of this charge. I knew the powers with which an Indian sovereignty is armed, and the dangers to which tributaries are exposed. I knew that from the history of Asia, and from the very nature of mankind, the subjects of a despotic empire are always vigilant for the moment to rebel, and the sovereign is ever jealous of rebellious intentions. A zemindar is an

Indian subject, and as such exposed to the common lot of his fellows. "The mean and depraved state of a mere zemindar" is, therefore, this very dependence above mentioned on a despotic government—this very proneness to shake off his allegiance, and this very exposure to continual danger from his sovereign's jealousy, which are consequent on the political state of the Hindostanic governments. Bulwart Sing* if he had been, and Cheyt Sing as long as he was a zemindar, stood exactly in this "mean and depraved state," by the constitution of his country. I did not make it for him, but would have secured him from it. Those who made him a zemindar entailed upon him the consequences of so mean and depraved a tenure. Ali Verdi Khan and Cossim Ali fined all their zemindars, on the necessities of war, and on every pretence, either of court necessity, or court extravagance.'

"My Lords, you have now heard the principles upon which Mr. Hastings governed that part of Asia which is subject to the British empire. You have heard the opinion of the man, as to the depraved state of those that are subject to it. You have heard his lecture on arbitrary power, which he states the constitution of Asia to be founded upon. You have heard the appeal he makes to it, and the practice he employs to justify it. My Lords, do you really think the nation will endure—that any human creature would bear—to hear an English governor defend himself on such principles—that no man has any security for anything but by being totally independent of the British Government? You may, if you please, (God forbid you should, but I believe you will have little disposition,) believe him, when he asserts that he was a despotic prince; that he could use arbitrary power; and, of course, that all his actions are covered with a shield. Suppose we had been allied with Russia; that we had made conquests in Crete, or Peloponnesus; and that a governor coming from that country, should say, 'Such a Bashaw with three tails did so before me—such a Bashaw took bribes with both his hands—I know nothing of the constitution of Asia but from its practice.' Will you ever hear the rights of mankind made subservient to the practice of government? It will be your lordships' duty and joy—it will be your pride and triumph, to teach men, that they are to conform their practice to principles, and not to derive their principles from the wicked, corrupt, and abominable practice of any man whatever. Where is the man that ever before dared to mention the practice of all the villains, of all the notorious depredators, as his justification? to gather up, and put it all into one code, and call it the duty of a British governor? I believe so audacious a thing was never before attempted by man. 'He had arbitrary power!' My, Lords, the East India Company have not arbitrary power to give him. The King has no arbitrary power to give. Neither your Lordships, nor the Commons, nor the whole legislature, have arbitrary power to give. Arbitrary power is a thing which no man can give. My Lords, no man can govern himself by his own will;

* As stated, *ante*, p. 364, Bulwart Sing, the father of Cheyt Sing, was merely an aumil, or farmer of the revenues, for the Nabob of Oude; but his son was raised to the rank of zemindar.

much less can he be governed by the will of others. We are all born—high as well as low—governors as well as governed—in subjection to one great, immutable, pre-existing law, a law prior to all our devices and all our conspiracies, paramount to our feelings, by which we are connected in the eternal frame of the universe, and out of which we cannot stir. This great law does not arise from our combinations and compacts; on the contrary, it gives to them all the sanction they can have. Every good and perfect gift is of God; all power is of God; and He who has given the power, and from whom alone it originates, will never suffer it to be corrupted. Therefore, my Lords, if this be true—if this great gift of government be the greatest and best that was ever given by God to mankind, will he suffer it to be the plaything of man, who would place his own feeble and ridiculous will on the throne of Divine justice? It is not to be overturned by conquest; for by conquest, which is the more immediate designation of the hand of God, the conqueror succeeds to that alone which belonged to the sovereign before him. He cannot have absolute power by succession; he cannot have it by compact; for the people cannot covenant themselves out of their duty to their rights. If any, by conquest, by compact, or by succession, exercise power which, for the good of mankind, ought never to exist, those who gave that power, and those who receive it, are alike criminal; and there is no man that is not bound to resist it, and who ought not so to do. Nothing but the fear of greater mischief, and the apprehension of absolute destruction, can justify men in the usurpation or endurance of it, much less justify those that sit in the seat of justice. For law and arbitrary power are at eternal hostility. Name me a magistrate, and I will name property; name me power, and I will name protection. To speak otherwise is blasphemy to religion; it is contradiction in terms. We should be brought back to our original situation; we should be made to know ourselves, as men born under law. He that would substitute will in the place of law, is a public enemy to the world; therefore, my Lords, against law, no power can be set up. I know from whence this idea of arbitrary power has come. It comes from a gross fountain. It does happen that the supreme power in every country is not subject to prosecution. It is so in all governments. The King of this country is undoubtedly unaccountable for his actions. If the House of Lords should abuse their power, and give the most iniquitous judgment, for the sake of obtaining popular favour, or of avoiding sovereign displeasure, there is no way of calling them to account for it. If the House of Commons had been guilty of so scandalous an iniquity as not to have prosecuted those crimes and those principles which we now stand forward to accuse, they would not be accountable for their conduct in any ordinary way, because it is one of the prerogatives of the supreme power. But are they less criminal? Is it less rebellion against the Divine Majesty? Are they less hateful to men? My Lords, they are not.

"My Lords, Mr. Hastings claims an acquittal at your hands; Mr. Hastings is to have the advantage of counsel. God forbid he should not have them!

but, then, the people under him are to have none of these advantages. How can any man dare to say, that the people below are to have no laws, no rights? I now declare, that as no government ever had arbitrary power, it cannot delegate that power to any person under it, so as not to leave him accountable upon the principles on which it was given. Would not this be a contradiction in terms? Let me say, for the honour of human nature and for the glory of England, that we have better institutions for the preservation of the rights of man than any other country in the world. Yet I may boldly assert, that no nation on the face of the earth has ever meant to delegate this power. The Oriental governments know nothing of this arbitrary power. My duty has led me to a minute inspection of the subject, and I challenge the whole race of man to show me, that any Oriental governors have a right to act upon arbitrary principles. The Mahomedan government includes the greater part of Asia—the Mahomedan government is a government by law; it is a law enforced by stronger power than any law that can bind an European sovereign. The law is given by God, and it has the double sanction of law and religion, with which the prince cannot dispense. If any man will produce the Koran to me, and show me one text in it to the contrary, I will give up my point. I have read those books, and am conversant with the decrees of Asia, in which there is not a word or syllable against it. As the Mahomedans have this law, so they have their interpreters and expounders of this law, whom they call men of the law. These men are conservators of the law; and, to secure it against arbitrary power, they are themselves made secure against the oppression of the sovereign, who has no power over them; he can neither touch their rights nor their property. The first thing that a man of the law has, he is secured from and made independent of the sovereign, supreme, executive power.

"My lords, to bring the thing nearer home; since we are challenged, since we are brought into Asia, and wrapped up, as Mr. Hastings is, with his supposed instruments of despotism in Asia, let us look at the government of the Grand Seignior. Is this an arbitrary power? Every one knows, that great, high, and exalted as this abstract sovereign has been made by our prerogative lawyers (and they cannot exalt him too highly), he cannot impose a tax, he cannot dispose of the life, of the property, of the liberty, of any of his subjects, without what is called a festa—that he cannot make peace, that he cannot declare war, without the same sentence of the law—so much is he, more than European sovereigns, a subject of strict law. If, then, he can neither touch life nor property; if he cannot lay a tax on his subjects, I leave it to your Lordships whether he can be called an arbitrary power. When the gentleman talks of the affairs of Asia, of the first Asiatic sovereign, Mahomet, he is to be told, that that magistrate who has the greatest executive power amongst them, is the person who, by the constitution of his country, has the most restraint upon him by law. How far Asiatic sovereigns have crept out of this—how far corruption has increased, it is not for me to say. The gentleman says, the practice of Asia he abides

by. My lords, there is much blood, there is much murder, there is much false imprisonment, general extortion, peculation, and robbery, to be found in Asia. If the gentleman chooses to go to the iniquitous practice of it—that practice authorised only by public tumult, contention, war, and violence—he may find as much condemnation in the constitution as violence in the practice. If he dispute the act of Parliament, let him quote to me that law to which he means to be subject. And, if any law that he knows can justify his actions, I am not authorised to say I shall give up the cause, but I shall for myself confess, that I have been brought to public shame, and am not fit to bring this charge before your Lordships. I therefore say, that strict government consists in obedience to the laws; and that government, by this constitution, more than any other, cannot exercise arbitrary power.—The next question is, whether the constitution of India is composed of arbitrary power, as the gentleman at the bar has thought proper to say. It will be happy for India (though a happiness, he tells you, they never can enjoy), when the despotic inclinations of the princes shall give way to the milder spirit of the law. Do not you think it, my lords, a most extraordinary thing, that a British subject, exercising authority, should quote the very names of those men who exercised the power which they held by mere force? With regard to the institutes of Genghis Khan, which Mr. Hastings calls arbitrary institutes, it is a book I never saw; he will produce it; it is with him; I have it not; I can say nothing about it. But if we may judge by those institutes that we have, of a descendant of Genghis Khan, there is not a shadow to be found in any part of the book savouring of arbitrary power. I have carefully read every part of these institutes; and if any one can show me a single word in them in which the prince himself lays claim to arbitrary power, I will confess that I have brought myself to shame. My Lords, there is no book that contains more noble, more just, more manly, more pious principles, than this book, called the Institutes of Tamerlane. So far are they from promoting this fraudulent doctrine of arbitrary power, that I will venture to say, the chief thing by which they have recommended themselves to posterity, has been a direct declaration against it. The book, my Lords, is a legacy left to posterity by the great Tamerlane. It begins:—

" 'Be it known to my fortunate sons, the conquerors of kingdoms; to my mighty descendants, the lords of the earth; that since I have hope in Almighty God, that many of my children, descendants, and posterity, shall sit upon the throne of power and regal authority; upon this account, having established laws and regulations for the well governing of my dominions, I have collected together those regulations and laws as a model for others; to the end, that every one of my children, descendants, and posterity, acting agreeably thereto, my power and empire, which I acquired through hardships, and difficulties, and perils, and bloodshed, (by the Divine favour, and by the influence of the holy religion of Mahomed, God's peace be upon him! and with the assistance of the powerful descendants, and illustrious followers of that prophet,) may be by them preserved. And let them make these regula-

tions the rule of their conduct in the affairs of their empire, that the fortune, and the power, which shall descend from me to them, may be safe from discord and dissolution.'

"After mentioning many of the maxims, by which he had established the rules of his conduct, he says:

"'By justice and equity I gained the affections of the people of God, and I extended my clemency to the guilty as well as to the innocent; and I passed that sentence which truth required: and by benevolence I gained a place in the hearts of men; and by rewards and punishments I kept both my troops and my subjects divided between hope and fear. And I compassionated the lower ranks of my people, and those who were distressed.'

"I find nothing of arbitrary power, and your lordships, thank God! find nothing of arbitrary power in this book.

"'I inquired, (he continues,) of learned men into the laws and regulations of ancient princes, from the days of Adam to those of the prophet, and from the days of the prophet down to this time. And I weighed their institutions, and actions, and their opinions, one by one. And from their approved manners, and their good qualities, I selected models. And I inquired into the causes of the subversion of their power; and I shunned those actions which tend to the destruction and overthrow of regal authority; and from cruelty, and from oppression, which are the destroyers of posterity, and the bringers of famine and of plagues, I found it was good to abstain. And by laws, and by regulations, I executed every business and every transaction that came before me in the course of my government.'*

"My Lords, I need not enter more fully, I hope, to show the noble principles of morality, the manly maxims, the resolution to abstain from oppression, and the recommendation to every governor to abstain from it too—all contained in this book, which Mr. Hastings has referred to, and called arbitrary institutes. The morality of the East, my Lords, as far as respects governors, is as pure as our own; and I challenge any man to show me, in any political book, more sound morality than that of this Asiatic governor.

"My Lords, I am now to show you what followed when the princes of India deviated into cruelty, when they departed from those maxims of Tamerlane which ought to have guided their conduct. And here I have to relate a matter of fact, attested by a traveller of credit and consequence, which is material to my purpose, since it shows what took place on an occasion when one of the princes of the country had recourse to one of those cruel and arbitrary executions, which make us execrate them. God forbid, we should not depend as much on reason, in the manner of our punishments, as in any other thing; for the unequal punishment of a crime of a moderate nature, is a crime as bad as the instance it punishes. As these anecdotes are curious, and as they go directly to the principles laid down in Mr. Hastings's defence, I beg leave to mention them. The first is the instance of a

* White's Institutes of Timour, 4to.; Oxford, A.D. 1783.

governor who was punished for venturing to levy a tax without the consent of his master.

"'This khan, or governor,' (says Tavernier,*) 'appeared to me so brave and generous a person, that I was very much troubled afterwards for his being in disfavour with the king, and his death, which ensued. For this khan, finding the walls of the city of Kom, which were only of earth, and the bridge over the river, to be out of repair, without writing to the king, of his own head, laid a slight imposition upon every basket of fruit that was brought into the city. Now, there are in all the cities of Persia persons who are hired to take an account, every week, what the commodities may be worth, and to take care that no more than such a toll be laid upon anything; which they tax among themselves, and when they have set the rate, they cause it to be cried at the beginning of every week. Sha Sefi then reigned, it being the year 1632. The king being informed by these people of the impost which the Khan had set upon fruit, without his knowledge, was so enraged against him, that he caused him to be brought in chains to Ispahan, where he used him with a strange severity; for at that time the son of the Khan stood at the king's elbow, it being his office to give him his pipe and his tobacco, which is a very honourable employment in Persia. When the Khan came, the king caused him to be carried to the gate of the palace, in the presence of all the people, and then commanded his son to pull the hair of his father's moustaches by the roots from his skin. After that he commanded him to cut off his nose and his ears; after that, to put out his eyes; and lastly, to cut off his head. When he had done the execution according to the king's pleasure, he commanded him to go and take possession of his father's government, and allowing him an experienced old man for his lieutenant, he sent him to Kom, with these words: 'If thou governest no better than this dead dog has done, I will put thee to a more cruel death than this.' I quote this passage to prove to your lordships, that whoever were the princes of that country, they were zealous that justice should be administered, even in the levying of the most insignificant tax. This is enough for me. I do not justify the severity of the punishment. My Lords, there is another case from the same author —the case of the Nazar, or grand master, receiving presents of the people:—

"'The people cried out against the Nazar, who being a person of low extraction, and advanced to that high dignity in a short time, grew so proud that he contemned all the lords of the court. There was no dealing with him about any business, unless he were first presented; and he paid nobody without making some advantage of it. Everybody had reason to complain; yet no person knew how to come at the king to make their complaints. At length they bethought themselves of making their application to two black eunuchs, who had the king's ear in the night. These two eunuchs seeing the king in a good humour one night, let fall certain words concerning the Nazar, and his management of affairs, and thence slid into a discourse of his

* See Tavernier's Travels into Persia and the East Indies, p. 30, A.D. 1677.

injustice, that caused the people to cry out against him, and speak evil of his government. Now, it happened one morning, that the king intending to go a hunting, the grand master, who had always a large train attending him, coming to the king's tent, the meter denied him entrance. About the same time the king came forth, and seeing the Nazar, commanded his officers to take off the bonnet from the head of that dog that took gifts from his people; and that he should sit three days bare-headed in the heat of the sun, and as many nights in the air. Afterwards he caused him to be chained about the neck and arms, and condemned him to perpetual imprisonment, with a mamoudy a day for his maintenance.'

"My Lords, in quoting these passages, it is not that I approve either of one or the other. I do it in order to prove to your lordships the horror in which that government is held, where the governor shall presume to receive presents, or to raise money from the people in a manner contrary to law; and to show that no eastern governor acts thus upon any principle of the constitution. The doctrine that, in the East, there are no laws, no rights, no liberties, is a doctrine which has not only been stated by the prisoner at the bar, but has been disseminated with a wicked activity throughout this country. My Lords, as I told you before, every Mahomedan government is a government by law—it does not nor cannot delegate the whole of its power and authority—the Mahomedans live under law, as clear, as explicit, as learned, and as well-founded as our own. The Dewan, or high steward, has the business of all the exchequer causes, to be decided under him according to law: the law of inheritance is under the jurisdiction of the Causee, who cannot adjudge without having two Muftis along with him; and although there is no appeal, properly, in the Mahomedan law, yet if these two judges do not agree, the cause is sent to what they call the Elos. The whole is independent of the governor of the province. All these officers, the Causee as well as the Muftis, hold their situations, not during the pleasure of the prince, but during the pleasure of the people. This much, I say, for the sake of the principles of law and the constitution of the Mahomedan government. My Lords, I say, that Mr. Hastings has no refuge—let him run from law to law; let him fly from common law, and the sacred institutions of the country in which he was born; let him fly from Acts of Parliament; let him do all this, still the Mahomedan law condemns him; the high magistrates of Asia condemn him, for receiving presents; they condemn him for levying arbitrary fines and impositions. No, let him fly where he will—from law to law—law, thank God, meets him everywhere—arbitary power cannot secure him against law; and I would as soon have him tried on the Koran, or any other eastern code of laws, as on the common law of this kingdom.

"My Lords, the next thing is, does the Gentoo law save him? The Gentoos have a system of law, accurately written, suited to all the occasions of that people, comprehending a body of equity; they are governed by laws and institutions, having that which makes law good for anything, a substantial body of equity. I venture to say, that Mr. Hastings finds no autho-

rity for his practice, either in the Koran or in the Gentoo law.* In short, let him have eastern, or let him have western law, he will find everywhere arbitrary power, and oppression, and peculation, proscribed more than he wishes them to be. My Lords, if it appears, as I hope and trust it will, that there are laws in this country for the regulation of the conduct of governors of distant dependencies, then I say, at any rate, that a British governor is to answer for his conduct, not according to the examples and practice of Asia, but by the laws of England. There is another point, my Lords. Mr. Hastings says, he was left to form his rule of conduct on his own practice: when he had taken one bribe, he thought he might take another: when he had imprisoned one man, he thought he might imprison ten others. He justifies himself by the examples and practice of others. But who, my Lords, are they? Tyrants and usurpers. He makes the corrupt practices of mankind the principles of his government; he collects together the vicious examples of all the robbers and plunderers of Asia, forms the mass of their abuses into a code, and calls it the duty of a British governor. He first brings to our notice the practice of former usurpers, and at last he comes to his own. He says, 'the minister of this empire had, in the various emergencies of his administration, the learned judges of the land, general officers of the first authority and experience, and the merchants of the greatest commercial city in the world, to whom he might apply, and whose opinion he might command, on every doubtful occasion, whether of law, military operation, trade, or finance. He could not err; whereas I, poor man! sent out while yet but a schoolboy, to India, possessed no such professional aids, but had only my own mind for my resources, and minds as little instructed as my own to assist me, and to be the instruments of my measures.'

"My Lords, I venture to say, that such a declaration might, in some measure, suit persons who have displayed a conduct correspondent to this ignorance—humble, modest, unassuming, and hence, possibly, lax and smooth in the exercise of their duty. But bold, presuming, dogmatic, ferocious, active ignorance, is a crime of itself, and aggravates every other crime. Mr. Hastings might well say, I was an ignorant man, and I left some of the commands of the Directors unobeyed through ignorance. When he says he never decides better than when he disobeys an act out of defiance, as he calls it, this is not the language of an ignorant man. But I beg your pardons, my Lords, it is the language of an ignorant man; for no man who is not full of bold, determined, wicked ignorance, would ever think of bringing such an example of fraud before you. He tells us that he left Westminster-school while yet a boy. My Lords, we have to regret that he did not stay in that school which has been so prolific in lights, both of the church and the law—greatly have we to lament that he did not go to those universities where the doctrine of arbitrary law is never to be heard of—where the true

* The code of Gentoo laws was, under Mr. Hastings's administration, compiled from the original Sanscrit, by the most experienced lawyers, selected from every part of Bengal.

principles of religion and law are taught and practised. We have to lament that this was not the case, instead of going to the school of Cossim Ali Khan. If he had remained with us he might have made the examples of Cicero, and others, the rule of his actions; but he now quotes to us every name in Asia, notorious for tyranny, barbarity, usurpation, and murder, as examples fit for the imitation of a British governor. But your lordships keep here that great school for the discipline of kingdoms, which teaches governors, if they are ignorant, not to be assuming; if they are assuming, not to be cruel, barbarous, and ferocious: so that when Mr. Hastings says, that such and such examples, he will be shown that the same laws, the same sacredness of principle, however they may be disobeyed, both in Europe and in Asia, are held and strictly maintained; and that if all Asia were combined in a league of cruelty, usurpation, and murder, the British nation would nevertheless send out a governor to teach it better manners, better customs, and better principles; and if he did not so act, he would be called upon to defend his conduct, upon the pure doctrines of England, and not the barbarous customs of Asia. My Lords, I will go further, and say, that there is not a boy in the fourth form of Westminster-school, who has learned our catechism, and the first elements of morality, who, if these articles of charge were read to him, would not know that such conduct is not to be justified.

"My Lords, there is another point; and Mr. Hastings takes it up as a general rebutter: says he, 'As to a great many of these practices that I am charged with, Parliament re-appointed me to my trust,* and if I am guilty, they are so.' My Lords, I boldly say, that the Commons of England are wholly guiltless of this charge: if they had re-appointed him to a great public trust, after they had known of his guilt, they would have been participators with him; the public would have reason to reprobate their conduct, and there would have been great indecorum in the present prosecution. Perhaps, if we had examined as strictly into the conduct of Mr. Hastings as we ought to have done, he would not have been re-appointed. If any one will show any of those actions with which he is charged to have been known to the House of Commons, we will then take our part of the shame. Since we have known them, we have never ceased to reprobate them—we called him home to answer for them. But, my Lords, the plea would not avail him, if the fact were as he alleges; since the greater part of the enormities charged have been committed since his last appointment. But to think of the audacity of a governor to throw in the face of his country, 'You trusted me when you ought not; you are obliged to carry me through; it is your own act!' We reply, 'The wickedness was yours; the trust was ours; and if we, in the moment of inadvertency, appointed you, when we ought not to have appointed such a criminal, that should have been a lesson to you; but, instead of this, you redoubled all those crimes: you ceased not from the moment of your re-appointment to be guilty of them.'

* In 1773, when he was appointed Governor-general of India, instead of President of the Supreme Council of Bengal, which office he previously held.

"My Lords, there remains but one point more on the part of the East India Company. We know, and I trust all the world well knows, that the pardon from the Crown cannot bar an impeachment of the Commons; much less can a pardon of the East India Company; though it might involve them in guilt, which might induce us to punish them for such pardon. The East India Company, it is true, have pardoned him, and they ought not to have done it. But as to his acts, they have all been condemned by them, one by one, as they arose, with the utmost severity. There is not one in which the East India Company have not most severely censured him. They have said, We thank you, in the gross, for your good and faithful services. I answer, Yes; if he has performed any, I thank him too; but I do not know them. The East India Company have thanked him for services, and not for crimes. I answer, Let them thank him for those services. I am directed to prosecute him for crimes: and when your Lordships shall come to examine into the means he has taken with the East India Company to procure those thanks, when their records are everywhere filled with censures of his actions, I believe you will think it some addition to his guilt, that he has succeeded in the attainment of those thanks.

"My Lords, Mr. Hastings tells us, that there is also the testimony, in his behalf, of the princes and rulers of India. Assuredly, we might be inclined to receive the testimony of those Indian princes, if we had not unfortunately seen how seals are obtained in that country; if we did not know how those princes are imposed on; if we did not know the abjectness with which they are obliged to suffer, and to give thanks for their sufferings. I believe your lordships will admit, that there is not, with respect to some of those princes, a more miserable thing, than to say that he has obtained their thanks. I understand he has obtained the thanks of the miserable princesses of Oude;* they thank him for leaving them the smallest trifle of existence; and I will venture to say, if he wanted a hundred more panegyrics, provided he never again came amongst them, he might have them by dozens. I understand that Rajah Cheit Sing has made his panegyric too. But my Lords, the Commons of England attack Mr. Hastings neither with panegyrics nor with satire; we attack him with substantial crimes; and when we shall have proved them, you will be induced to think the panegyrics he has procured, either gross forgeries, or most miserable aggravations of his cruelties.

"My Lords, these are, as I conceive, the general grounds of the case. I have now closed completely, I hope, the whole body of history, with which, when I wished to put your Lordships in possession, I did not mean to insinuate that many of you were not perfectly acquainted, by previous inquiries; but merely so to open the subject, that your Lordships might know the characters against whom the gentleman at the bar acted, and with whom he acted; the particular nature of the circumstances; then the principles and practices which he quotes; the laws and authorities which he refuses, and

* See note, *ante*, p. 127.

those on which he relies for his acquittal. Having refuted all these pleas in bar, I here close this part of my labour; trusting that, when I open to your Lordships more fully the several crimes with which we charge the prisoner, you will hear me with the same patient indulgence. It was from the sense I felt, that it was a cause of the greatest consequence—a cause the most difficult, the most complicated, that ever was brought before any judicature, that I resolved (perhaps to trouble you, but, as it appeared to me) to bring the whole into order. And now I will state briefly the mode of proceeding which the managers on the part of the Commons purpose to adopt. I mean, first, to bring before your Lordships the crimes, as they are classed, as they arise out of one another, and are of the same species of guilt. I shall first show your Lordships, that the crimes of Mr. Hastings had their foundation in that which is the root of all evil, I mean avarice—that avarice and rapacity were the ground-work and foundation of all his other propensities; that he showed it in putting up to sale the native government of India; in putting up to sale the whole landed interest; in setting up a British governor in the person of his own servant. I shall then show, that when, from the notoriety of his corruptions, he dreaded the just vengeance of the laws of his country, in order to form a faction, he, by means the most abandoned, obtained for himself a party. Next, I shall show you, that he has looked to what he calls his external resources; that he has gone up into the country after having visited Bengal. I shall show how he has plundered, or attempted to plunder every one. I shall show what infinite mischief arose from the treaty of Benares,*—what was his conduct to the Begums of Oude—what to the landed interest of Oude, first by residents, next by spies, next by British officers; and lastly, I shall show you, that he found out one miserable chief,† whose only crime was the prosperity of his country, and that him he endeavoured to torture in a manner, the recital of which is revolting to humanity."

Here Mr. Burke concluded his second day's speech, which lasted upwards of four hours.

THIRD DAY.

Mr. Burke continued:—

"My Lords, the gentlemen who are appointed by the Commons to manage this prosecution, have directed me to inform your Lordships, that they have carefully and attentively weighed the magnitude of the subject which they bring before you, with the time which the nature and circumstances of affairs allow for conducting it. On the comparison they are apprehensive, that if I should go very largely into the preliminary explanation of the several matters of charge, it might prejudice the trial of the substantial matters in question. We have weighed and considered them maturely; we have compared them exactly, the time with the matter; and we are obliged to do as all men must

* See note, *ante*, p. 676.

† Hafiz Rhamet, the Rohilla chieftain.—See, *ante*, p. 677.

do, to conform our opinion to the business—to submit affairs to time, and not think of making time conform to our wishes. Therefore, I very willingly fall in with what is the wish of the gentlemen, and what I believe the nature of affairs will require; and am ready to come as soon as possible to close fighting; to grapple immediately and directly with the corruptions in India; to bring before you the direct articles; to apply this evidence to the articles. These are the opinions of the gentlemen with whom I act; at the same time, they do most perfectly concur with my own; for I am far from desirous of wasting any part of your Lordships' time on a matter, merely from an opinion I have of the nature of the business, when, at the same time, that opinion must militate with the giving to that business its full, proper, and immediate effect; because we are to take care that, on our part at least, no justice may be lost. Therefore, though I originally intended to class the several crimes with which the defendant is charged, to show their several bearings, and how they mutually aided and grew out of each other, I think I shall be obliged, in some measure, to abridge this plan, and bring it within a narrower compass. The first thing, therefore, that I propose to show is, that the whole of the crimes charged upon Mr. Hastings have their root and origin in avarice and rapacity; that avarice and rapacity led to prodigality of the public money; and that that wasting of the treasures of the East India Company did, by necessity, or pretended necessity, furnish excuse for the Government to break its faith, to violate all its most solemn engagements, and to cast a ferocious aspect on all the natives. I am, therefore, directed only to state to you, this day, the root of all those misdemeanours, namely, pecuniary corruption and avarice; which was the great material head, and gave rise and primary motion to all the rest of the crimes which we charge him with. This head of pecuniary corruption pervades so entirely the whole of his conduct, that there is not an article of the impeachment, in which tyranny, malice, cruelty, and oppression are charged, which does not, at the same time, carry evident marks of this corruption. On Saturday last, I stated to your Lordships the principles on which Mr. Hastings governed his conduct in India, and upon which he grounds his defence; which may be all reduced to one short word—arbitrary power. If that gentleman had contended, as all the rest of the men in the world contend, that the system of government which he professed, and upon which he acted, was a good system, tending to benefit mankind, something might be said to colour so wicked a scheme; something might be said to qualify the acts. It is something singular that he takes care to inform you that he was not blind to the consequences; and, in his defence before the House of Commons, that very system that appears to himself a system pregnant with a thousand evils and a thousand mischiefs, he lays down as the foundation on which his administration was conducted. The next thing that is material in his principles, is, that when he is engaged in a wicked system—a system which absolutely leads to evil consequences—he thinks himself bound to realise all the evil consequences that spring from that system. Any other man would say, I have been engaged in such a system, but I have

taken care to qualify, by my own virtues, the evils of the constitution; but Mr. Hastings foresees the evil, considers, not only the necessary and proper, but the abusive consequences of it, the corrupt consequences of it, and then he conforms his conduct to that system. Now, one thing in the charge respecting banyans is corruption. Mr. Hastings foresaw it. An arbitrary system must always be a corrupt one. There never was a man who thought he had no law but his own will, who did not also find that he had no ends but his own profit. We say that Mr. Hastings governed corruptly; that is to say, that he gave and received bribes, and formed a system for that purpose. We say that he did not only receive and give bribes, accidentally, without any scheme or design, merely as the opportunity or the importunity of temptation incited, but that he formed schemes and plans of government for that very purpose. This system is such a one, I believe, as the British nation, in particular, will disown; for if any one thing distinguishes this nation eminently above another, it is the dignity attached to its offices, from this, that there is less taint of corruption in them; so that he who would, in any part of these dominions, set up a system of corruption, and attempt to justify it on the score of utility, that man is staining, not only the general nature and character of office, but he is staining the peculiar and distinguishing glory of this country. My Lords, I shall show that, in his judicial and official character, Mr. Hastings has stained it. There are, undoubtedly, many things in governments that make them fearful and odious; but bribery, peculation, and guilty hands, are things that have always been denominated low, base, and contemptible. It is certain, that even tyranny itself may find some specious colour, and may appear even as a more secure and rigid execution of justice; religious persecution may shade itself under the guise of a mistaken and over-zealous piety; conquest may cover itself with its own laurels, and induce a man to imagine that future benefits will make amends for the present exigency; but nothing can excuse money; there is pollution in the touch. There is pollution in that government which makes nothing but money its object. What are the merits which Mr. Hastings has pleaded? That he corrected the abuses, or prevented the evils of an arbitrary government? No such thing. What he contends for is, that he squeezed more money out of the inhabitants of the country than any other man could by any other means have done. These, my Lords, are his merits; his very merits are nothing but merits of money; money got by oppression; money got by extortion; money got by violence, from the poor or from the rich. There is breach of faith, cruelty, perfidy; yet the great ruling principle of the whole is money. His acts are acts, and his government a government, of money. It is base avarice, which never can look, by any prejudice of mankind, anything like virtue. To his employers, the Company, he says, You have got a large sum of money from the people, and you may leave them to be governed as they can. If he has at any time taken any money from the inhabitants of the country, he does not pretend he has increased their zeal and their affection for your cause, or made their subjection more complete. Very far from it. In short,

money is the beginning, money is the middle, and money is the end of his government.

"Having said thus much as to the origin and first principle of what Mr. Hastings considers as his merits, but what I call his demerits, the next step will be for me to lay open to your Lordships, as clearly as I can, what the sense of his employers, the East India Company, and what the sense of the Legislature itself, has been upon those merits or demerits. My Lords, the Company, knowing that these money transactions were likely to subvert that empire which was first established upon them, did, in the year 1765, send out a body of the strongest and most solemn covenants to their servants, that they should take no presents from the country under any description, except those which were publicly and openly taken for the use of the East India Company, namely, territories or sums of money which might be taken by treaty; and they distinguish the sums, because, undoubtedly, in that state, and in every state, there may be subsidy treaties, there may be sums of money to be taken; but they forbade their servants ever to receive, under any name or pretence whatever, any sum of money, without the consent of the Company, and in other cases, without the knowledge of the Governor.

"My Lords, to show you how radical an evil this of bribery and presents is, when these covenants went out to India, the Company's servants there refused to execute them; they suspended the execution of the covenants until they had enriched themselves by means of these presents. Whether Mr. Hastings had or had not the example of others to justify his reception of bribes, it is clear that he was sent out to destroy the whole system of bribery; it is clear that the Company expressly charged him so to do, and that they not only reposed a trust in the integrity of Mr. Hastings, but reposed a trust in his remarkable frugality, in the regularity and order with which he conducted his affairs, and which they considered as distinctive traits in his character. But now we behold him quite in another character: no longer the frugal, attentive servant, bred to business, bred to book-keeping; he now knows nothing about his affairs; nay, there are people who tell us they know better than he does what his affairs were. He may be a Newton or a Herschel in affairs of astronomy, but of the knowledge of the affairs of this world he is quite ignorant. It was from the idea of his incorrupt integrity that the East India Company appointed him. Since that he has thought proper to justify himself, not by clearing himself from the charge of receiving the bribes, but by saying, that no grave consequences can arise from his having so done. These, my Lords, are pretexts which I leave to others to reconcile as they please, and pass on to what the Act of Parliament did. My Lords, the East India Company not only sent out instructions, very severely reprehending their servants for a moment's delay in executing the covenants; but they went a step further, and got a commission to enforce that doctrine. Still stronger; that commission had this necessary charge given them, never to receive presents. The Company never sent out a person to India without commanding presents not to be received, and recognising this as an essential

principle. How any one can encourage that by example, which by precept he is bound to restrain, it is not for me to determine. Another commission was preparing to be sent out with the same powers which you see the Act of Parliament gave Mr. Hastings. My Lords, every office of trust, in its very nature, forbids the receipt of bribes. Mr. Hastings was forbidden it, first by official acts, then by covenant, and, lastly, by Act of Parliament. This has formed, as it were, the sphere of the practice of his government. Mr. Hastings did consider that indirect ways of taking presents, the taking them by others, directly in the same manner as if they had been taken by himself. This, indeed, is more dangerous, because it adds to the crime the false mode of conceiving it, and makes it more mischievous by admitting others into a participation of it. And one of Mr. Hastings's general complaints is this, that he is made answerable for the acts of other men. My Lords, all those who enjoy a great trust, all those who undertake to regulate the affairs of an empire, are, and must be, responsible for the conduct of other men, so far as they have anything to do either with appointing them, or retaining them in their situations. Mr. Hastings was not only bound to prevent it, but there was a special order given him to inspect certain great departments of the state, to watch them narrowly, and observe that they did not transgress the line of their duty. He took upon himself to remove persons from their situations, and place others of his own recommendation in their stead, and thus became doubly responsible. We shall, however, prove to your Lordships, that the persons he so appointed were persons of notoriously evil characters and principles, and that their characters and principles were perfectly well known to him, as well as to the rest of the world.

"My Lords, governors cannot, by their own single pair of hands, receive the bribes; they must have as many hands as one of the idols in the Indian temples, to receive all the bribes that eastern governors have to receive. Mr. Hastings has had various white agents; but he has had many more black agents; for, be it remembered, that white men are more licentious with their tongues than black men; that black men are very secret as to mischief; that they are not apt to have very quick resentments; that they have not the same liberality, the same bluntness of language, which characterises Europeans. Therefore Mr. Hastings, who will not, he says, be responsible for the acts of other men, has had his black agents—not one, nor two, nor three, but many—disseminated through the country; no two of them acquainted with the secrets of each other. He had his white agents also: one of them is Mr. Larkin, who was Accountant-general, and Mr. Crofts, who was Sub-treasurer; these were the last persons in the world to be agents, where there was to be any receipt of bribes. The instances were few, where two men were in the secret of the same bribery; but there is one part of a single bribery committed to one black secretary, and another to another; so that it is almost impossible to make up a complete body of the scattered limbs of all his briberies; but you may pursue them, and may find the scattered limbs, some here and some there: and by that means he hopes to escape

the prosecution of them all. My Lords, when Mr. Hastings went to Bengal, in the year 1772, the first of his acts was the most bold and extraordinary that, I believe, ever entered the head of any man; I will say, of any tyrant. It was nothing less than a general exceptionless confiscation of the property of the ancient nobility and freeholders of Bengal; he put it up to a pretended public, but in reality to a private corrupt auction; landholders were obliged to consider themselves as not any longer proprietors of the estates, but were recognised as mere farmers under Government, those few that were permitted to stay.*

"I shall say nothing either of the circumstances of the purchase, or of the rights of the people to their property, till that great question, the greatest of all which we shall bring before your Lordships, shall be brought before you particularly as an article of charge. I only take it in now as a part of the great system of corruption. When the ancient nobility, (a nobility, perhaps, as ancient as that of your Lordships, and a more truly noble body never existed in that character,) all the gentlemen, all the landed freeholders of the country, had their estates in that manner confiscated, or delivered over to the farmers. Undoubtedly, certain public good was pretended for this dreadful act of tyranny. The pretence was, the augmentation of the revenues of the Company. It had been found that the oppression and violence of the Tartars did not take money enough from the landed interests of the country; and therefore the mode was discovered of confiscating estates, and of letting them to the farmers, for the purpose of making an estimate how much it was possible to let them for, and then put them up to this private corrupt auction. The first consequence was, that these farms fell, for the most part, into the hands of the banyans of the Company's servants, and their delegates; the banyan of Mr. Hastings himself, Cantoo Baboo, obtaining, contrary to an express regulation, farms which paid a revenue of £150,000 a year to Government. The second consequence was, that at the end of five years there was a defalcation of this exacted revenue, amounting to no less a sum than £2,050,000. Hence arose a new source of corruption, in the remission and compositions that were necessary to be made of that immense debt; for every man who had engaged in these transactions was a debtor to the public, and dependent upon the mercy of the Lieutenant-governor, who by that means was able to exact the last shilling, and there never was a doubt raised in the minds of mankind, but that immense fortunes were made. This will account to your lordships for the manner in which these stupendous fortunes have been made so fast by a tyrannous exaction, by a sale of the people; by either offering them to continue in possession of their land, under the appellation of farmers, or afterwards taking other sums for the relaxation of their debts. But when I tell you that these miserable exactions were performed through the agency of the farmers of the revenue, your lordships will be so good as distinguish them from the farmers of land. Undoubtedly, you

* See note, *ante*, p. 706.

would naturally expect to find the men in the several countries, who had the most interest, the most competence, the greatest wealth, and the greatest revenue, put in the place in which they were. No such thing, my Lords; they were almost all of them Calcutta banyans: they received their allotments, they next delegated them to others, and they again to others, *ad infinitum*. Many of them never saw the farms; and thus, various gradations and successions of black tyrants were scattered throughout the country. Your lordships are too wise, too grave, too discerning, to make it necessary for me to say anything more on this subject. I need not say more. There is, however, one character to whom I have slightly alluded, whom it is impossible for me to pass by without a few words. My Lords, every one has heard the name of this banyan, Cantoo Baboo, a name well known in the records of the Company, for receiving gifts, gratifications, and presents.* One would imagine that Mr. Hastings would at least have kept him out. To give a colour to the public, and the East India Company, that his whole system of pecuniary corruption and oppression was carried on solely for the benefit of the Company, an express order was made, that no person in office should have a share. But notwithstanding this order, Mr. Hastings gave farms to his own banyans. You will find this Cantoo Baboo the farmer of great, vast, and extensive estates. My Lords, there was another regulation, that no farmer should have, except in circumstances particularly marked and described, a greater farm than that of 10,000 acres to govern. Mr. Hastings, who had broken the first regulation, by giving any farm at all to his banyans, finding himself bolder, broke the second, and gave to his own servant farms to the amount of 13,000 acres.† Great men have been under the dominion of their servants, as we all know, sometimes; but never justifiably; always weakly. We know enough of the weakness of human nature, to know that a domestic who has served you long, and, in your opinion, faithfully, contracts an intimate relation, which makes him dear to you. Was this the case of Cantoo Baboo? My Lords, he had not been above twelve months in the service of Mr. Hastings; so that he never could have contracted any esteem for him, any kind of particular friendship, connexion, or attachment; if any man could do so for such a character as a banyan; for these people do not live in your houses; they are not near you in those very rational engagements in which your servants are useful; they cannot live with you; they cannot eat with your servants; they have no second table; they are not a part of yourselves; they all live at other places, and come at stated hours; their whole connexion with you is business. Judge then, my Lords, whether it be probable, that two positive regulations were broken, that these outrageous violations of all principles took place, merely for the benefit of this old, grateful, affectionate servant, of one year's standing.

"And now, my Lords, I come to a scene of peculation of another kind,

* See note, *ante*, p. 129.

† Yielding a rent of £150,000 per annum. See, *ante*, p. 843.

namely, a peculation by the direct sale of the whole Mahomedan government of Bengal, by the direct sale of the offices of justice, by the direct sale of all the successions of families, by the direct sale of guardianships, or whatever trusts are most sacred among the people: by a sale of them, not as you might imagine, to near relations of their families, but to unfaithful servants of those families, to perfidious servants, who were the means of all their debts. They were put in power over the estates, and over the families, by Mr. Hastings, who will be proved to you to have violated another of the most sacred trusts reposed in him. Those agents, or attornies, who had been sent, and paid, to set to rights the affairs of their miserable masters, before the accountant-general, were, by Mr. Hastings, as the reward of their corruptions, put into possession of the very estates of those masters whom they were sent to Calcutta to defend from wrong and violence. My Lords, the Directors of the East India Company, knowing the exceedingly corrupt state of their servants in India, when Mr. Hastings was appointed, in 1773, Governor-general of Bengal, sent out Mr. Barwell, General Clavering, Colonel Monson, and Mr. Francis, and gave to them a sacred charge, that, in execution of the spirit of the Act of Parliament, they should make inquiry into all manner of corruptions and malversations in office. My Lords, the gentlemen so sent out executed the trust committed to them in a manner the most exemplary—in a manner that serves as a shield to cover the fair fame of England, whenever the conduct of England, towards India, is called in question. As soon as they arrived, they found that a great murmur was abroad. Shortly after, when the Council was put in a state to receive the complaints of the people, they found such a body of corruption, of peculation, in every walk, in every department, in every situation, in the sale of the most sacred trusts, in the destruction of the great families of the country, as never before was unveiled. Upon this occasion one would imagine that Mr. Hastings would have acted with some little management; but there is no part of those general acts of corruption in which the principal figure of the piece, Mr. Hastings, has so acted. All the departments were corrupt. Mr. Hastings was at this time gone upon a voyage; you do not see Mr. Hastings, you see only Cantoo Baboo; you either see the black or the white side of Mr. Hastings. There were other gentlemen visible, too, with whom I have at present no dealings. Mr. Hastings, instead of using any management upon this occasion, instantly set up his own power and authority directly against the authority of the Council; against the authority of the East India Company; and against the authority of the Act of Parliament. He put a dead stop to all these inquiries. He broke up the Council whenever they attempted to call it. His daring power increased continually. There was no act of violence that he was not suspected of, in order to put an end to inquiry. My Lords, you have all heard, that, amongst the accusers of his crimes, there was a principal person called Nuncomar;* but Mr. Hastings has himself given, upon the records of

* See note, *ante*, p. 134.

the Company, a character of this person. I have not the least inclination to defend either his conduct or his memory. This man, if he was an accuser of Mr. Hastings, if he was a fraudulent accuser, and a man of bad character, there was this great advantage, that there was no likelihood of any attention being paid to him without caution. But, it seems, he had been an informer before; he had made some discoveries; he had been guilty of that great sin against the Holy Ghost, the discovery of peculation. But he stated facts and circumstances; the sums of money paid; by whom, and through whom, this species of peculation was transacted: detection, therefore, was easy, and Mr. Hastings would have flown to detection, and would have been glad to have shown this accuser to be a man of bad character, by bringing proofs of the same. But, instead of doing this, Mr. Hastings broke up the Company's Council, by adjourning it. I will not say whether legally or illegally; whether he left no circumstance whereby to apologise for his conduct; but that it was done from a consciousness of guilt, no one can doubt. But this man, this Nuncomar, whom Mr. Hastings dared not meet at the Council, he proceeded against in another place. There he thought it necessary to make a charge against him. The British Legislature, not trusting solely to the institutions of the Governor-General, had sent out a court of justice, for the detection and punishment of any kind of misdemeanour that might appear. Before this court Nuncomar was accused by Mr. Hastings. Instead of meeting the man front to front, he endeavoured to flank him—to go round him; to come on his flank and his rear, but never to meet him in front. On his accusation, he disobeyed his instructions; and if it was no more than for that act of rebellion, it was contended that he ought to be brought to account. Long before Nuncomar preferred this charge, he knew that Mr. Hastings was plotting his ruin, and caused a man to be the instrument of his destruction; and Mr. Hastings proved these papers, charging Nuncomar with this previous plot. By close confederacy between him and the chief justice, we find that the witnesses who appeared there were nearly all persons connected with Mr. Hastings; that they were persons who were employed for him; all the persons who appeared as witnesses and parties had been, both before and since, the particular friends of Mr. Hastings. In short, there was a person there, who, with tears in his eyes, begged of Mr. Hastings to receive £300,000 himself; but the law takes its course. I have nothing further to say: the man is gone—justly, if you please; however, it so happened, luckily for Mr. Hastings. Things were all in exact concurrence: Mr. Hastings is accused; his accuser is subsequently accused, but first condemned; and his condemnation saves Mr. Hastings from further trial. All happened luckily to meet together. His accuser was supposed to be, what he might possibly be, an accomplice in guilty acts. All I can say is, that he was in the situation of giving bribes, and Mr. Hastings was afterwards proved to have received bribes. I show the criminal tendency and mischievous nature of those acts, and the means of eluding punishment for them. I am now giving you that general view which may serve to characterise Mr. Hastings's administration in

all its parts. Such was the nature of the people of that country, that, not knowing how to distinguish the limits of exact justice, they, somehow or other, conceived that the attempt to accuse Mr. Hastings was destroyed with Nuncomar. But, my Lords, if Mr. Hastings intended to have made a proper and a decent use of the transaction, would he not have said, 'The man has been justly taken away who accused me of these crimes and enormities, but as there are other witnesses, let the inquiry proceed'? Was it fit, my Lords, that a governor should stand with recorded bribery upon him, when it was in his power to do it away? Therefore, I charge upon him, that not only did he suppress the inquiry to the utmost of his power, whilst the witness lived, but that afterwards, in no one instance, did he endeavour to wipe off that shame. I charge upon him, that he went further; that he never denied any one of these charges.

"My Lords, Mr. Hastings, when he had got rid of this business, by the providential execution of Nuncomar, one of his accusers only, (I wish that to be understood,) he promised the Court of Directors a full explanation of the whole transaction; which explanation he never gave them. Says a man, I am threatened with a suit in a court, the explanation required may hurt me in my defence; this may be a very good excuse in a common cause, but a man accused of bribery, who, instead of defending himself, says, I will adjourn it over for seven or eight years, joins his promise to his employers, with what is tantamount to a denial of his promise. Mr. Hastings was providentially freed from Nuncomar, one of his accusers, and as fortunate events do not come alone, it so happened, that all the rest, or a great many of them, ran away; no new ones came in, and Mr. Hastings enjoyed the happy repose which branded peculation must leave on the mind conscious of its own guilt. It is, undoubtedly, the duty of a great, a virtuous, and a firm mind, to despise vulgar calumnies: but there is no case in which it becomes an honest man, much less a great man, to leave on record specific charges against him, without taking any steps to refute them.

"Soon afterwards, very serious inquiries commenced in the House of Commons, into the peculations of the East India Company's servants. Mr. Hastings knowing this, and having reason to apprehend that these inquiries, which had begun on the coast of Coromandel, would, at last, reach Bengal, determined to change his whole plan, and attempted to conceal the enormous bribes he had been in the habit of receiving. Accordingly we find him paying large sums of money into the public treasury, through the means of his deputy-treasurer and accountant, and taking bonds for them as money of his own, for which he was entitled to receive interest. This, my Lords, was his first mode of endeavouring to conceal the bribes he had taken; but, at length, when he found that further concealment was impossible, he wrote home to the Court of Directors, stating that there were certain sums of money which he had received that were not his own, and that he had received them for the use of the Company. My Lords, Mr. Hastings is a very ingenious man; but, I believe, there is a little defect here. Before he was considered as a peculator,

he did not pretend to apply these sums to the public service: he stood on the defensive, and used all the means in his power to prevent inquiry. The first was a bold, ferocious, direct attempt to use his power for purposes of peculation; but as soon as he is detected, he holds himself with a firm, dignified, and steady countenance, and says, I am not here as a delinquent, as a receiver of bribes, deserving of punishment; no, I am a great inventive genius; I have gone out of all the ordinary modes of finance; I have received bribes, it is true; but I have received them for your benefit. This bold, inventive, daring genius, this patriotic briber, this public peculator, does in this way, as he would have you believe, contribute his private mite towards the public benefit. It is said, my Lords, that ambassadors are persons sent abroad to tell lies for the benefit of the country. Mr. Hastings, it seems, has taken bribes for that purpose. The moment any person begins to discover a bribe, 'Go about your business,' says Mr. Hastings: 'do not inquire about my actions.' That man is ruined for being informer; that man is brought to distress; he loses the favour of the Governor-general; he loses the favour of the East India Company too. The Governor received bribes and extorted money; but then it was all for the good of the Company!

"Now, my Lords, what I am about to state may appear very singular, rash, absurd, and wild; but, thank God, guilt is never rational; it disturbs all the faculties of the mind, and leaves a man no longer the free use of his reason. It puts him into that condition, which, as all those who are used to our courts know, has been the cause of the detection of half the criminals in the world. My Lords, God forbid that prudence, which is the supreme guide, and, indeed, stands the first, of all the virtues, should ever be the guide of vices. I am to tell you that, when Mr. Hastings makes this sort of discovery to the Court of Directors, he never tells them who gave him the money, nor on what occasion, or by what hands it was given, except in one instance. First, I am to remark, that the accounts given of this money are totally false and contradictory. There wanted nothing more than this to enable us to judge of the transaction, whether it was fraudulent or not. That was enough; there is a strong presumption that the transaction is bad, when the account given of it is false. Mr. Hastings, being called to an account by the Court of Directors, was asked, how he came to take bonds for this money, if it was not his own? How he came to vitiate and corrupt the records of the Company? Says he, 'I really cannot tell; I forget'—the distance of time not so long as two years.—'It might be to prevent the curious at Calcutta from being acquainted with the proceedings of the State. I ought not to be pressed now for an account of motives which I no longer remember, and of which I cannot give any acconnt, as my papers are in India.' It is somewhat remarkable, that Mr. Hastings's answers on this head varied with his situation. When in India, he could give the Court of Directors no satisfaction on this business because he was not in Europe. When he came to England, without entering into all his contradictions, (that will be another day's business,) he tells us, he had left all his notes and references behind him. He sends a letter

to Mr. Larkins, the bribe agent and broker on this occasion, to give that account of this affair which he was not able to give himself. Thus he endeavoured to charge the treachery of his administration to the treachery of his memory.

"Now, observe, my Lords, here is a man taking money corruptly; here is a man committing bribery; giving false security for it to cover it; called upon to tell where he got it from, and on what views and occasions: he neither will tell in India, nor can tell in England; but sends you over such an account as has been never heard of. And here begin the effects of these bribes, corruptions, and peculations. I am first to state to you the great instruments, the great engine, which he used, to lay all the people in the country under contribution, to bring the whole into subjection, and to put himself as much as possible out of the way of the discoverers of bribes. Peculation, my Lords, slept for some time, whilst Mr. Hastings had a majority of the Council against him. But General Clavering and Colonel Monson having been removed by death, and Mr. Francis, harassed and tired of his situation, having resigned, the whole Council then consisted of himself and Mr. Wheler. Mr. Hastings had the casting vote, and therefore there was no need of introducing this gentleman; Mr. Wheler was, however, gained over, perfectly compliant. I enter not into the causes of it—the man is dead—the business is over; but from him Mr. Hastings met with no opposition, and if he had, such opposition would have been vain.

"My Lords, six provincial councils were established by the Governor-general, for the collection and management of the revenues. These councils had, in the opinion even of Mr. Hastings himself, so well answered the end of their institution, that, though they had been constituted only for a time, and for the purpose of experiment, he thought they ought to be made permanent. These councils had been established in November, 1773. In the year 1774, Mr. Hastings earnestly offered his advice to the Governor-general and Council, (then newly established by Act of Parliament,) for the continuance of the system of provincial councils in all its parts. In April, 1775, he transmitted to the Directors a formal plan for the future settlement of the revenues; and declared, at the same time, that, 'with respect to the mode of managing the collection of the revenue, and the administration of justice, none occurred to him so good as the system which was already established of provincial councils.' On the 18th of January, 1776, he dispatched to the Court of Directors a plan for the better administration of justice; and in that plan, he had specially provided for the permanent establishment of these provincial councils; and he not only recommended it to the Directors to confirm that establishment, but also to apply to Parliament, and procure for it the sanction of the legislature; nay, he went so far as to transmit to the Court of Directors, on the 30th of April, the draft of an Act of Parliament for the better administration of justice in the provinces belonging to the Company, in which there was a special provision for the establishment of provincial councils, and special jurisdiction was assigned to each of them.

My Lords, one might have imagined, from all that Mr. Hastings had said and written upon this subject, that the establishment of these councils, as far, at least, as depended upon him, would have been made permanent; but on a sudden he changed his mind, and, in a letter to the Court of Directors, dated the 5th of May, 1781, he affirmed, 'that the plan of superintending and collecting the public revenue of the provinces, through the agency of provincial councils, had been instituted for the temporary and declared purpose of introducing another more permanent mode, by an easy and gradual change.' Here Mr. Hastings had completely abandoned, in one moment, an opinion which he had recommended to the Court of Directors for near eight years successively; and though he himself had drawn up the plan of an Act of Parliament to confirm in perpetuity the establishment of these provincial councils, yet he had the face afterwards to tell the Company, that 'it had at first been adopted for the temporary and declared purpose of introducing another more permanent mode, by an easy and gradual change.' Here again the prisoner showed that he never could adhere to one opinion; for, instead of introducing a change by degrees, he suddenly abolished all the provincial councils, without having found any fault with them; nay, just after he had himself pronounced a panegyric upon them; and in their room he established one single council, under whose management was placed the administration of the whole revenue of the kingdoms of Bengal, Bahar, and Orissa:* this council was to be supreme in points relating to the revenue, and consequently independent of the Governor-general and his Council.

"My Lords, it seems very odd, that a man like Mr. Hastings, who loved power and patronage, should thus place both beyond his own reach; and so it would, if he had done so in reality: but this was not his object; he wanted to make this council independent of the Supreme Council in future, and dependent solely upon himself; he did not wish to trust to another thwarting majority in his own council; and, therefore, he was determined that there should be no connexion between the one and the other. This new council he composed entirely of his own creatures and favourites; but as it was necessary that these gentlemen should have for their dewan, or secretary, some native acquainted with the laws and customs of the country, a person who could communicate between them and the country government, such an agent was given to them by Mr. Hastings—a man that you will often hear of—a name, at the sound of which all India turns pale—the most wicked, the most atrocious, the boldest and most dexterous villain that that country ever produced. There never was a friend—there never was a foe of Mr. Hastings—there never was a human being, that differed in their opinion of Gunga Govind Sing, the friend of Mr. Hastings, to whom all the authority below and all the authority above was delegated. I hope and trust your Lordships will allow me to state, from the report of the Council themselves, the nature

* The petitions from Bengal, Bahar, and Orissa, were partly the cause of the appointment of the two Committees on Indian affairs, mentioned *ante*, p. 361.

and importance of this office of secretary. My Lords, they assert that the whole power—a power of the most alarming and terrible nature—centred in this man; and that the Council, with the best abilities and intentions, were, after all, little better than tools in the hands of their dewan. He pried into the secrets of families; he availed himself of the knowledge of those secrets; and he thereby had it in his power to lay the whole country under contribution. Now, my Lords, you have here the opinion of the Council itself; you see what they are made for; you see the executive power was destroyed; you see that the delegation, by Mr. Hastings, of all the English authority, both above and below, judicial and civil, was given to this Gunga Govind Sing. The screen he put before the public, the veil, was thrown open, and Mr. Hastings uses the names and authority of the English to make them tools in the hands of the basest, wickedest, corruptest, the most atrocious, villain that ever was heard of. My Lords, you have heard that the provincial councils were destroyed. Did Mr. Hastings pretend to say that he destroyed them for their corruption or insufficiency? No such thing. He declares he has no objection to their competency, no charge to make against their conduct. The provincial councils were then destroyed; forty English gentlemen were removed; the whole administration of the country was overturned; the East India Company were burdened with pensions for the persons dismissed, and with £62,000 per annum, for the newly-appointed council, and all for the purpose of establishing Mr. Hastings's friend, Gunga Govind Sing.

"My Lords, the character of Gunga Govind Sing was known to Mr. Hastings before he appointed him secretary to the new council. Mr. Hastings knew the public opinion of the man. 'It is true,' he said, 'this Gunga Govind Sing is generally spoken ill of; but nothing particular that I know of is laid to his charge: nobody denies him to be a man of abilities, and for that reason I employed him.' Now, my Lords, if anything ought to have hindered Mr. Hastings from putting any, much less the whole, trust of the government of Bengal, in one man, it was that he was not a man of integrity, or reputed so to be. Mr. Hastings, however, does not mind the general estimation in which Gunga Govind Sing was held: he knew he had been turned out of office by others: he knew he had been turned out, for reasons assigned on the record and approved by the Court of Directors, for malversations: he had, nevertheless, crept in again, and for malversations they were on the point of turning him out again, when Mr. Hastings saved them the trouble, by turning him out: so that he was known to be a man of notoriously bad character. Permit me, my Lords, for one moment, to drop my representative character here, and to speak to you as a man much conversant in the world, as a man much acquainted with men and manners, in active life, and amidst occupations the most various; and, from that experience, I now profess, that I never knew a man that was *bad*, fit for any service that was *good*. It is not in their nature. Their minds are distorted by following the corrupt artificial means of accomplishing their own selfish ends. Out of that track, they are poor, dull, helpless, resourceless

creatures. Their faculties are benumbed on that side. They are quite paralytic. There is always some disqualifying ingredient mixing with the compound, and spoiling it. Their muscles have lost their very tone and character: they cannot move. In short, the accomplishment of anything good is a physical impossibility in such a man. There is decrepitude as well as distortion. He could not if he would, is not more certain than that he would not if he could. These men know nothing but how to pursue selfish ends by bad means. Therefore I say, my Lords, no one ever employed a bad man but for bad ends. Mr. Hastings knew the man intimately. There may be situations, perhaps, in which such a man might be employed; but who, except Mr. Hastings, would have dreamt of putting the whole kingdom and the whole council into such hands? If the idea of a virtuous discharge of the duties of his office had, in any degree, entered into the plan or intention of the prisoner, he never would have placed such a man in a situation in which the natural disposition of his mind to wickedness would have full scope for action and gratification. My Lords, the council that had been appointed to act as the tools of Gunga Govind Sing, or rather of Mr. Hastings, formed no inconsiderable branch of the civil establishment of Bengal; for the salaries of the members amounted to £62,000 a year; a sum nearly equal to the united salaries of the Governor-general and the members of the whole Supreme Council of Bengal. It was not for the service they did the country, that the members of this new board of revenue received so profuse an allowance; for it was not intended that they should do anything; their salaries were intended rather as douceurs to bribe them to silence, than to stimulate them to activity in their department:—they were to enjoy repose; and all that was expected of them was that they should not interfere with the plans that Gunga Govind Sing might occasionally adopt in the collection of the revenue. These gentlemen did not actually receive such instructions when they were appointed members of the Council; but they soon perceived that they were only the dignified tools of the Governor-general's confidential agent. All they could do was to remonstrate; and in this they acted like men of honour; they fairly stated, and their report, as I before observed to your lordships, is upon record, that they were mere cyphers, and that all the powers of the board were, in effect, vested in Gunga Govind Sing; who, from the nature of his situation, had it in his power to lay the provinces under contribution; and whose inclination to do so was equal to his power.

"My Lords, we soon find him employed in the way in which he was meant to be employed; that is, in taking bribes and corrupt presents for Mr. Hastings. He had constant, uniform, and, as we shall prove, close communication with the prisoner; and, indeed, we may here be saved a good deal of trouble in proofs, since Mr. Hastings himself, by acknowledging that Gunga Govind Sing was his broker, has pretty clearly revealed the secret. My Lords, Mr. Hastings writes to Mr. Larkins, the Company's treasurer at Calcutta, who, in consequence, sends over an account, which comes

directly in evidence before you on the subject of these presents. My Lords, there are in it a number of presents, which, when they come to be summed up, will appear enormous. It appears that a cabooleat, or agreement, to pay four lacs of rupees had been received, three of which had been actually paid, and one remained on account. We are told that Mr. Hastings received all this. We are told that he received these three lacs through the hands of Gunga Govind Sing. We are further told, that Mr. Hastings was extremely angry with him for having kept back, or defrauded him of, a sum of £10,000 out of £40,000. Certainly, my Lords, it was very extraordinary and very reprehensible in this Gunga Govind Sing, and unworthy of the great and high trust which Mr. Hastings reposed in his integrity, to keep back from him the fourth part of his whole bribe! My Lords, we have found the province, we have found the sum of money given, we have found the agent employed, we have found the receiver. The province is Dinagepore,* the agent is Gunga Govind Sing, the sum is £40,000, the receiver is Mr. Hastings. But who gave this sum to him, or on what account it was given, nowhere appears.

"My Lords, as the above-mentioned sum of £40,000 was not an ordinary article of revenue, as it was acknowledged to be a present, without any account being given of the person from whom, or the cause for which it was given, the only way of coming to any conclusion on the subject, will be for me to show your lordships what was the state of transactions at Dinagepore at that period; an inquiry which will tend greatly to develope the dreadful consequences of that system of bribery and corruption which had been established by Mr. Hastings. My Lords, the country of Dinagepore, with its dependent territories, are nearly equal to all the northern counties in England, Yorkshire included, and has a prince at the head, called the Rajah or Zemindar of Dinagepore. I find that, about July, 1780, the Rajah died: he died, leaving a half-brother and an adopted son. A litigation instantly arose in the family; and this litigation was referred to, and was finally to be decided by, the Governor-general in Council, that being the ultimate authority for all revenue questions. The cause came before Mr. Hastings, who decided the question in favour of Sudermund Sing, the adopted son of the Rajah, against his half-brother. I find on that decision a rent settled, and a fine paid; so that all this transaction is fair and above-board; and I find, along with it, many extraordinary acts; for I find Mr. Hastings taking a part in favour of that minister, Hyder Beg, agreeably to the principles of others, and contrary to his own; and, on his establishing the authority of the minister, Hyder Beg, I find he gave the guardianship of this son to the brother of the wife of the late Rajah; and when the steward of the province was coming down to represent his case to Mr. Hastings, Mr. Hastings not only sent him back (so far from hearing him fully), but ordered him actually to be turned out of his office. If the present of four lacs of rupees was given in consideration of the judgment in favour of the adopted son, whether the decision was

* A district of Bengal, containing a population of about three million persons.

right or wrong, true or false, the bribe was corruptly taken by Mr. Hastings as a judge in a litigation of inheritance between two parties. And what, my Lords, on such a supposition, renders the case more flagrant, is, that the present came through the hands of Gunga Govind Sing. He was the person that was to receive it by monthly instalments, and to pay it to Mr. Hastings. The son, too, of Gunga Govind Sing was, at this time, Registrar-general of the province, and had in his care all the documents upon which the legal merits of the case depended; so that Mr. Hastings takes a bribe from an infant of five or six years old, through the hands of the Registrar, whose opinion was to have the whole weight in settling that share that was not a public tribute or fine. So that, in fact, through the Registrar of the country, the keeper of the records, he receives a bribe from a family on a point of judgment disinheriting the brother. I do not say whether the decision was proper or not. I know these questions of adoption are the most curious in the Gentoo law. This I know, that he succeeded in obtaining a bribe through the hands of a man who was Registrar-general of the province; and, soon after this, we find other parties concerned. Soon after this we find the man who gave the bribe, and all the officers under him, turned out of their employments, and the guardianship of the infant given to the brother of the wife of the late Rajah. Soon after, without any proof, that appears upon record, of mismanagement or neglect, the guardian was displaced by Gunga Govind Sing, and the Rajah put into the hands of a perfect stranger. My Lords, I will do Mr. Hastings the justice to say, that if he had known that there was another man more accomplished in iniquity than Gunga Govind Sing, he would have given him the first place in his confidence; but there was another next to him, a person called Debi Sing. He ranked under Gunga Govind Sing. This man, although he had in the transaction of the £10,000, forsook the very shape, rules, and name of virtue, yet Mr. Hastings is to acquit him of this—they were reconciled on this occasion. Debi Sing came into office, superseding all the others. There is an English gentleman, one Mr. Goodlad, whom your lordships will hear of presently. They appointed him; and the first act they do is to cut off £1,000 a month from his allowance, because he is stated to be extravagant, and have a great number of dependants to maintain. In short, all is flutter and bustle: there never was such a tender guardianship and superintendence as that of Debi Sing (always with the knowledge of Mr. Hastings) towards this poor Rajah, who had just given £40,000 (if he did give £40,000) for his nomination to Mr. Hastings.

"We now put Debi Sing in possession of the Rajah's family, together with the management of his household. The very next step, in the course of ten years, is to give him the farming of the revenues of all the Rajah's provinces. It may be said, that the peshcush* was not received as a bribe for the nomination of the Rajah, but was received as a bribe in office. Which is the best, or which is the worst, I shall not pretend to determine; but it

* Or "consideration."

appears most probable, that Mr. Hastings got it from Debi Sing in consideration of this appointment. Thus were the revenues of the Rajah given in farm to a man, who, in the universal opinion of all Bengal, was second only to Gunga Govind Sing, a man with whose character Mr. Hastings was perfectly well acquainted, and of whom he has since recorded, that he knew Debi Sing to be completely capable of the most atrocious iniquities that were ever charged upon man. Now, my Lords, though this is a large field, and though it is a thing that I must confess I feel reluctance in mentioning, exhausted as I am at present, yet such is the magnitude of the topic, such the hurtful consequences of superseding all the persons employed, in order to give the country into the hands of Gunga Govind Sing and Debi Sing, that I must go on. As Mr. Hastings avows his knowledge of the character of this Debi Sing; as he tells us that he accepted him as a person against whom no possible objection could be made; it will be necessary for me to state to your Lordships who the man was to whom those great trusts and profits were given. My Lords, Debi Sing was a person of the tribe of banyans, that is to say, the trading and merchant class of India, and was employed in all those little arts and frauds to get money, which is their business. While Mahomed Reza Khan, that great man, had the management of all the affairs of state and revenue in his hands, under the Company, Debi Sing paid his court to him with all the assiduity and subtleness which those who have no principle are very apt to use. When the Khan was brought down to Mr. Hastings, and ordered, on a strange charge, to Calcutta, Debi Sing lent him considerable sums of money. For this great man was accused of great crimes, and acquitted—£250,000 in debt; that is to say, as soon as he was a great debtor, he ceased to be a great criminal. Debi Sing obtained his interest, and one of the first great concerns entrusted to him was the collection of the province of Purneath. How did he conduct himself in that situation? My Lords, he so well acquitted himself in that place, that the province was totally ruined, and half desolated. The revenues of this province, under his management, fell, in the first year, from £160,000 to £90,000, and in the next year to £60,000; and it was finally so completely ruined and desolated, that a company of Indian merchants, who had taken it at a reduced rent, when they came to view it, fled in a fright out of the country, and gave ten thousand pounds to be released from their bargain. This, my Lords, was the first opportunity he had of showing how deserving he was of greater trusts. His corruptions and oppressions were too abominable to escape notice, and, accordingly, in 1783, Mr. Hastings removed this man from his employments, but not from his profits, which he was allowed to retain. Thus stigmatised, he had still the influence to procure the office of high dewan, or deputy steward, to the council of Moorshedabad, the principal of the six provincial councils. This council consisted of young men, who, like other young men of pleasurable dispositions, and especially like young men in India, were willing to reconcile, if they could, the means of acquiring a good fortune with the effects of ruin. Debi Sing

took compassion upon them, and undertook to lead them, at one and the same time, through the paths of profit and pleasure. This man possessed, in an eminent degree, the art of pleasing those whom it was his interest to conciliate. It was his study to provide so quick a succession of pleasures, diversions, and entertainments, for the gentlemen who had seats at the council board, that they should not have much leisure to attend to business, or inquire minutely into his conduct. There is, my Lords, in that country, a tax much more productive than honourable—a tax upon dancing girls, and other females who make a profession in India of contributing to the pleasures of the men, without any scruples on the score of modesty. This tax Debi Sing formed; and from among the ladies who were the subjects of the tax, he singled out, with that care and with that ability for which he has been so much commended, those who had the greatest personal merit. The ladies were called 'good pearls of price,' 'rubies of pure blood,' and all those fine names that tended to heighten the general harmony. Debi Sing made frequent visits. He always carried this moving seraglio about with him wherever he went. With them he concerted the plans of new entertainments, which were executed with all the refinements upon pleasure that Asiatic luxury could devise. His guests were supplied liberally with the choicest music, the finest dancing, the most delicious French wines, the most costly perfumes of India, in short, with everything that could by possibility add to the luxury of such a scene. This great magician—chaste in the midst of dissoluteness—sober in the midst of drunkenness—active in the lap of drowsiness—watched the favourable moment for the accomplishment of his purposes, and contrived, as if by accident, and not by design, to have papers of the utmost consequence brought to the gentlemen who composed the council to be signed. Young men, my Lords, who are honest themselves, seldom suspect others of dishonest practices or arts; but still less so when their spirits are raised by wine, and the blandishments of women: at such a moment they unsuspectingly signed whatever paper was offered for that purpose; and thus the great ends of these expensive entertainments were fully accomplished; and thus did this keeper of a legal brothel obtain the superintendence of a number of districts, all of which, as he had done before, he grievously oppressed and desolated, incurred large arrears of payments, and in one of these places, for his peculations, he was publicly whipped by proxy. Having thus proved himself a kind protector of the people, a prudent farmer of the revenue, and a sober guardian of the morals of youth, he was chosen by Mr. Hastings as a proper man to superintend the young rajah, to lead him in the paths of piety and virtue, and to have the whole administration of his territories, the collection of the revenues of the great countries of Dinagepore and Rumpore, committed into his hands.

"My Lords, the consequences were such as might inevitably be expected. Debi Sing lost not a moment. One part of his instructions was, that he should not raise the rents, or impose new taxes upon the inhabitants; but such instructions did not weigh much with a man who knew that if he

broke through them, he was sure of impunity. He therefore resolved, by plunder and rapine of every sort, to make the most of his situation. The first thing he did was to seize on all the gentry of the country, as well as others, throw them into prison, keep them in irons, and oblige them to sign papers, consenting to an increase of their rents. The next step he took was to lay on them a number of new taxes, which, by his covenant, he was not to have laid. Being thus in prison, he obliged them to give bonds to what amount he pleased, as the price of their liberty. His next step was to seize and sequester the lands that pay no taxes. The demesne lands were accordingly put up to auction, and knocked down at *one* year's purchase, though the usual price of land in that country was *ten*. Whom were they sold to? Your Lordships will anticipate me—they were sold to Debi Sing himself, through the means of one of his agents. They amounted in all to the sum of £70,000 sterling a year; but, according to the value of money in that country, they were worth £300,000 a year. These lands, so sequestered, were purchased so much under their value, that the fee simple of an acre of land sold for about seven or eight shillings, and the miserable wretches received the payment for their lands out of the money that was collected from them. The money was put into a separate collection, and the moment it was paid the rents were raised again, and it was put by as a sacred deposit for himself, or some other person whom Mr. Hastings should appoint. Next was the sale of their goods. These they were obliged to carry to market; and there is here a circumstance that will call loudly for your pity —most of the principal landholders, or zemindars, happened at that time to be women. The sex, my Lords, in India, are kept in a constant state of imprisonment; nevertheless, from the sanctity in which they are held, they are guarded with all possible attention and respect. No hand of the law can touch them; but they have a custom of sending family bailiffs and family serjeants into their houses; and accordingly such persons came into the houses of these zemindars, and made themselves masters of them. The men and women all fled. All the charity lands were sold at the same market: all that the affections of their ancestors had provided to maintain the poor and helpless, was sold before their faces at that same market. But this, my Lords, is not all; there were things yet dearer to them—the poor consolations of imagination at death, for all the substantial miseries of life. There were lands set apart and destined for the burial grounds of the owners. How dear these grounds are to all the people of India, it is needless for me to say. But, by the tyranny of Debi Sing—a tyranny more consuming than fire, more greedy than the grave—these lands were sold also. This was to them, from the nature of their education and religion, the most heart-rending of all their losses. But, my Lords, this was not all. This was the manner in which all the principal gentry, all the secondary gentry, all the women, and all the minors were disposed of. What was the situation of the poor men, of the yeomen? I say their situation is ten thousand times worse, if possible—if there are degrees of utter ruin. They were driven like horned

cattle into the common prison, and there they were obliged to sign, as the principal zemindars had done before—they were obliged to sign recognitions of their ruin—they were let out only to their destruction. There were such an incredible variety of new taxes every day, that they were obliged to sell almost all the corn of the country at once. It happening to be a year of fulness, and the markets overloaded, their crops did not sell for above one-fourth of their value; so that, being overloaded with taxes, they came to the next resource—they were obliged to sell everywhere, and hurry to market all the cattle. Of cattle that were worth twenty shillings or twenty-five shillings a piece, five were known to sell for ten shillings. The next thing that they were forced to part with, was the ornaments of the women. The women of India do not decorate themselves according to our mode; their decorations serve as a resource in cases of emergency. These were all forced to be brought to market along with the cattle; so that gold and silver sold for twenty per cent. under their value. Some will say, 'Gold and silver sold under its value!' Certainly, my Lords, where there is an overloaded market and wicked purchasers.

"Permit me now, my Lords, to set before you the state of the people that remain victims of this oppression. It is notorious that poverty generally prevails among the poor ryots, or husbandmen; that the poor are seldom possessed of any substance, except at the time they reap their harvest; and this is the reason that such numbers of them were swept away by famine. Their effects are only a little earthenware, and their houses a handful of straw, the sale of which was not worth a few rupees; but it is still incredible that there should not be a want of purchasers. My Lords, I produce this strange testimony from the person himself who was concerned in racking these people, and I produce it to show what a country it is. The people, while they were harassed in this manner, sought that dreadful resource which misery is apt to fly to; they fell into the hands of usurers. Usurers, my Lords, are a bad resource at any time; and at that time those usurers, to the accustomed hardness of that description of people, added another that makes such men ten times worse, that is, their own necessities. Such was the determination of the infernal fiend, Debi Sing, to have those bonds discharged, that the wretched husbandmen were obliged to borrow money, not at twenty, or thirty, or forty, or fifty, but at *six hundred* per cent., in order to satisfy him!

"My Lords, I am here obliged to offer some apology for the horrid scenes I am about to open. Permit me to make the same apology to your Lordships, that was made by Mr. Patterson—a man with whose name I wish mine to be handed down to posterity. His apology is this—and it is mine—that the punishments inflicted upon the Ryots of Rumpore and Dinagepore, were, in many instances, of such a nature, that I would rather wish to draw a veil over them, than shock your feelings by a detail. But it is necessary for the substantial ends of justice and humanity, and for the honour of government, that they should be exposed, that they should be recorded, and

handed down to after ages: let this be my apology. My Lords, when the people had been stripped of everything, it was, in some cases, suspected, and justly, that they had hid some share of the grain. Their bodies were then applied to the fiercest mode of torture, which was this: they began with winding cords about their fingers, till the flesh on each hand clung and was actually incorporated. Then they hammered wedges of wood and iron between those fingers, until they crushed and maimed those poor, honest, and laborious hands, which were never lifted up to their mouths but with a scanty supply of provisions. My Lords, these acts of unparalleled cruelty began with the poor ryots; but if they began there, there they did not stop. The heads of the villages, the leading yeomen of the country, respectable for their virtues, respectable for their age, were tied together, two and two, the unoffending and helpless, thrown across a bar, upon which they were hung with their feet uppermost, and there beat with bamboo canes on the soles of those feet, until the nails started from their toes; and then with the cudgels of their blind fury, these poor wretches were afterwards beat about the head, until the blood gushed out at their mouth, nose, and ears. My Lords, they did not stop here. Bamboos, wangees, rattans, canes, common whips, and scourges, were not sufficient. They found a tree in the country which bears strong and sharp thorns:—not satisfied with those other cruelties, they scourged them with these. Not satisfied with this, but searching everything through the deepest parts of nature, where she seems to have forgot her usual benevolence, they found a poisonous plant, a deadly caustic, that inflames the part that is bruised, and often occasions death. This they applied to those wounds. My Lords, we know that there are men (for so we are made) whom bodily pains cannot subdue. The mind of some men strengthens in proportion as the body suffers. But people who can bear up against their own tortures, cannot bear up against those of their children and their friends. To add, therefore, to their sufferings, the innocent children were brought forth, and cruelly scourged before the faces of their parents. They frequently bound the father and the son face to face, arm to arm, body to body, and then flogged till the skin was torn from the flesh: and thus they had the devilish satisfaction of knowing, that every blow must wound the body or the mind; for if one escaped the son, his sensibility was wounded by the knowledge he had that the blow had fallen upon his father; the same torture was felt by the father, when he knew that every blow that missed him had fallen upon his unfortunate son.

"My Lords, this was not, this was not all! The treatment of the females cannot be described. Virgins that were kept from the sight of the sun, were dragged into the public court—that court which was intended to be a refuge against all oppression—and there, in the presence of day, their delicacies were offended, and their persons cruelly violated, by the basest of mankind. It did not end there: the wives of the men of the country only suffered less by this: they lost their honour in the bottom of the most cruel dungeons, in which they were confined. They were then dragged out naked, and in

that situation exposed to public view, and scourged before all the people. My Lords, here is my authority—for otherwise you will not believe it possible. My Lords, what will you feel when I tell you, that they put the nipples of the women into the cleft notches of sharp bamboos, and tore them from their bodies. What modesty in all nations most carefully conceals, these monsters revealed to view, and consumed by burning tortures and cruel slow fires! My Lords, I am ashamed to open it—horrid to tell! these infernal fiends, these monstrous tools of this monster, Debi Sing, in defiance of everything divine or human, planted death in the source of life!"

[Here Mr. Burke dropped his head upon his hands, unable to proceed, so greatly was he oppressed by the horror which he felt at this relation. The effect of it was visible through the whole auditory. Mr. Burke having recovered himself, continued:]

"My Lords, such are the cruelties that arose from the giving power to Debi Sing, and to infernal villains of his stamp. My Lords, the people of India are patience itself: their patience is proverbial. But gentle and inoffensive as they are by nature, the wretched natives were at length roused to resistance: for patience, like all other virtues, has its boundaries, beyond which it cannot possibly be stretched. Their common sufferings made large bodies of them combine, to revenge upon their tyrants the cruelties they had been made to suffer. The first effects of their fury were felt, as is usually the case, by the lowest instruments, and consequently the least criminal, employed in oppressing; they soon sacrificed to their rage some inferior collectors of the revenue: this was instantly pronounced to be a proof of an unprovoked, a wanton, and unnatural rebellion: the army was ordered to march against an unarmed multitude, who had nothing but their despair to oppose to the approach of the troops: they were, of course, soon broken by a regular army; numbers were relieved by violent deaths from the miseries attendant upon the most absolute poverty, and the memory both of happier days, and of friends and relations, torn from them by the most unheard-of cruelties that oppression could devise. The whole country, after the suppression of this insurrection, wore the most shocking appearance; the face of it was blasted; the villages reduced to ashes, the former inhabitants either destroyed by the sword, or totally dispersed; the fields were overrun with brambles and thistles; and the wild beasts of the forest were left to enjoy the uncontrolled dominion of those plains once so highly cultivated and thick set with populous villages.

"My Lords, such a revolution could not but arouse the attention of the Council: it was resolved, therefore, that a commissioner should be sent into the country to inquire into the causes of the late rebellion, with instructions to make a report to the Board of the result of his inquiries. It was thought, that on such an occasion, no man ought to be employed who was not distinguished for an uncommon degree of moderation. Such a man they found in Mr. Patterson. This gentleman was totally unconnected with any party in the Government; a lover of peace, and of the most conciliating disposition.

It was expected that he would have shared the blame of the rebellion between the oppressors and the oppressed; that he would pronounce both to be in some degree to blame; that he would soften matters; and that his report would recommend that the whole affair should be buried in oblivion. This gentleman had prepared himself for the arduous undertaking of a fair and impartial inquiry into the causes of the disturbances that were to be the subject of it. He knew, that if he should find the natives were innocent of any premeditated design against Government, and that they were driven to resistance by provocations too great for human nature to bear, he should draw upon himself the enmity and resentment of a powerful party, if he should make a faithful report of what he should have seen.

"On the other hand, he felt that his conscience would be torn, if he should conceal from those who had the power of punishing the guilty, the oppressions which he might discover had driven the wretched natives to madness and despair, and turned their country into a wilderness. He was resolved, however, to do his duty, though at the hazard of his fortune, and of all his future expectations. Before he set out upon his journey, he fortified himself, by reading a letter from his father, which he constantly kept by him, and which he never failed to read whenever he found himself in any situation that might expose him to the temptation of sacrificing his conscience to his interest. In that letter his worthy and venerable father entreated him to make it his constant study to do his duty to God and to the Company, in whatever situation it might be his fortune to be employed. He reminded him, that a quiet conscience, and a spotless name, were more precious than all the wealth of Asia; he warned him, therefore, never to do any act that could excite remorse, or bring a blemish upon his reputation. He conjured him to look upon his interests as but a secondary consideration; and assured him, that he would have infinitely more comfort in seeing him return to Europe, bankrupt in fortune, but rich in reputation, than if he brought with him the wealth of India, acquired by means that an honest man would blush to acknowledge.

"Fortified and confirmed by this letter in his just and honourable resolution, Mr. Patterson set out for the place of his destination, and began his inquiry. The discoveries he made were such, that he said in his report, he wished, for the credit of human nature, he might have been at liberty to draw a veil over them; but as his duty had made him enter upon the inquiry, so duty, truth, and justice, compelled him fairly to state what he had discovered, though his heart shrunk with horror at the idea of the unparalleled cruelties which he was about to lay open.

"My Lords, the report fills two large volumes, which are now in the India House. It fully acquits the natives of the guilt of rebellion, and throws all the blame of it upon those who, by the most unheard-of cruelties, had made the wretched inhabitants desperate. In what condition Mr. Patterson found the country when he arrived there, your Lordships may form some idea, from the following extract from one of his letters:—'In my two reports, I

have set forth generally the manner in which oppression has provoked the husbandmen to part with their stock and goods. I mean not to enumerate them now; every day my inquiries serve to confirm the facts. The wonder would have been if they had not, seeing it was not a collection of the revenue, but a robbery, which, with criminal punishment, and every instrument of disgrace, extended to every individual. There is a period when oppression will rise to resist—conceive the situation of the husbandmen; everything they had in the world was dragged away, exposed to every exaggerated demand, and sold at so low a price as not to answer that demand. They themselves were subjected to criminal punishment, and the loss of their women and castes. You will allow the full effect of prejudice on this subject.' The consequences of the loss of their caste to these persons, I have already stated to your Lordships. The loss of their caste amounts to more than a complete excommunication, a complete outlawry, or attainder would do in this country. The men or women who have lost their caste are no longer esteemed the children of their parents. This, however, was not all. Debi Sing made use of a species of pillory, which, in India, and particularly by the Brahmins, is considered more dreadful than death. Those who have been disgraced by this pillory, no matter whether with or without just cause, are, as it were, excommunicated; they are disowned by their own tribe, nay, by their nearest relations; and are considered as the outcasts of all society. This pillory, my Lords, is a bullock, with a drum beating on each side. The person who is once seated on it, is ever after disgraced and degraded, he and all his posterity. Debi Sing had this terrible bullock walking through the villages: at his approach the inhabitants all fled; and so general was the desertion of their habitations, that an Englishman who had travelled up the country, declared that he passed twelve miles without seeing a light, and without finding the means of making a fire to dress his necessary food.

"My Lords, all these direful calamities were the consequence of the government of Debi Sing. One would imagine that they would have drawn down upon him the severity of the Governor-general; that if ever Mr. Hastings had a right to exercise arbitrary power, he would have exercised it on this occasion. My Lords, we must not be too hasty. This report disappointed the Council: a very different one had been expected from Mr. Patterson. The members of the Council were greatly embarrassed;—the report ought naturally to have led to the punishment of the authors of the rebellion, and the cruelties that had occasioned it. But they stood not in fear of punishment; they were beyond the reach of it: they were protected by those whose duty it was to bring them to justice; and who, by neglecting that duty, had abetted the barbarities that disgraced the British Government. No attempt, indeed, was made to justify acts which, in their nature, were so brutal and savage; but the effects of the report were evaded, and exceptions the most captious were taken to it. Instead of proceeding to act upon the report, by calling the delinquent to an account, Mr. Patterson was converted

into a voluntary accuser of Debi Sing, and directed to make good the charges. They take an objection, that the depositions are not all upon oath, although it was never ordered that they should be upon oath. They thus throw a doubt, a shadow, upon them all—" [Mr. Burke was here taken ill; but he soon recovered, and proceeded thus:]

"My Lords, I am sorry to break your attention. It is a subject that pains me very much; it is long, difficult, arduous; but, with the blessing of God, if I can, I will go through it this day. The next step they took was this—to put Debi Sing into the shape of an accuser—"

[Mr. Burke was here seized with a cramp in his stomach, which obliged him to sit down: he was soon relieved from his pain, but was too much exhausted to be able to proceed. His Royal Highness the Prince of Wales, finding Mr. Burke so unwell, immediately moved to adjourn; which was agreed to. Mr. Burke had been speaking above three hours and a quarter.]

FOURTH DAY.

Mr. Burke, being sufficiently recovered from his indisposition of the preceding day, resumed his speech. He began by recapitulating the objects he had in view in the several matters that he submitted to the Court the day before; viz., that Mr. Hastings, by destroying the provincial councils, which formed the whole subordinate administration of the British Government in Bengal; by delegating their powers nominally to a committee of four persons chosen by himself, but in fact to a secret agent of his own, their dewan or secretary: by making this board, which had the whole management of the revenues, independent of, and unaccountable to, the Supreme Council; and by concurring in the appointment of persons of infamous characters to offices of the highest trust, had made himself responsible for all the mischiefs that flowed from those acts: that the acts themselves had, from the circumstances attending them, the strongest presumptive proofs that they were in the first intention corrupt, and that this presumption was strongly confirmed by the subsequent conduct of Mr. Hastings, particularly in the case of Mr. Patterson, which he proceeded to relate:—

"The report, with an immense body of evidence, being transmitted to the Committee, instead of giving that credit to Mr. Patterson, which persons acting in a public trust, and under the express orders of Government, are entitled to, they received it with great coldness, and visible disgust; instead of proceeding to act upon the report, by calling the delinquent to an account, Mr. Patterson was converted into a voluntary accuser of Debi Sing, and directed to make good the charges, which he had brought, by evidence upon oath; and finally, he was himself accused by Debi Sing (whose boldness increased with the protection he obtained) of falsehood and forgery, and was put as a criminal upon his defence. Under such circumstances, Mr. Patterson was sent back to that country, in which he had before been received as carrying the whole power of a beneficent Government, to see whether, among

a ruined, dejected, undone people, he could find constancy enough to stand to their former accusations against the known power of their former oppressor. In the mean time, Debi Sing was sent in custody to Calcutta, not upon the charges contained in the report, but for other offences. Here he remained some time a prisoner at large, and at last, a new commission being appointed to proceed to Rumpore, and inquire into the charges against Mr. Patterson, he was sent for by the Commissioners, and actually sat with them, whilst Mr. Patterson was excluded from all their deliberations. Four years had thus passed, during which Mr. Patterson remained in a state of affliction and continual conflict. Debi Sing remained a prisoner at large, with every mark of protection and authority, and the people of Rumpore, which," said Mr. Burke, "is a consideration of much greater importance than Debi Sing, or even than Mr. Patterson himself, remained totally unredressed, remain so to this day, and will remain so for ever, if your lordships do not redress them."

After some further observations upon the responsibility of Mr. Hastings, as arising from the abolition of the provincial councils, and the constitution of the new committee of revenue, by which he destroyed every check and control, and delivered the whole into the hands of his bribe agent, Gunga Govind Sing, he adverted to the defence set up by Mr. Hastings, that these presents were never received for his private emolument, but for the use of the Company, and that it was the best method of supplying the necessities of the Company in the pressing exigencies of their affairs. With respect to this system of presents, by which bribery was to be made a supplement to exaction, Mr. Burke first observed, that however promising it might appear in theory, it had not answered in practice; and that he should prove, that wherever a bribe had been received, the revenue had always in some proportion, and often in a double proportion, fallen into arrears; and, secondly, he called the attention of the Court to all those dreadful consequences which attended this clandestine mode of supplying the Company's necessities, as it was practised by Mr. Hastings.

Mr. Burke concluded this part of his speech with describing the last parting scene between Mr. Hastings and Gunga Govind Sing; a scene in which he appeared as an accomplice in the most cruel, perfidious, and iniquitous transaction, that, he said, was ever held forth to the indignation of mankind. When Mr. Hastings had quitted his office, and was now embarked upon the Ganges to sail for Europe, he writes a letter to the Council, in which he says, "The concern I cannot but feel, in relinquishing the service of my honourable employers, would be much embittered, were it accompanied by the reflection, that I have neglected the merits of a man who deserves no less of them than of myself, Gunga Govind Sing."

Upon this singular recommendation, Mr. Burke first observed, that with respect to the circumstances of the person whose merits Mr. Hastings was so fearful of leaving unrewarded, he was notoriously known to have amassed upwards of three millions sterling. With regard to his public services, Mr. Hastings states, that he had served the Committee of Revenue as Dewan,

from its first institution to that time, with a very short intermission. Of this office, and of his services therein, Mr. Burke said he had already given some account: with respect to the intermission, Mr. Hastings had omitted a material circumstance, namely, that it was occasioned by his having been turned out of his office for a short time, upon proof of peculation and embezzlement of the public money. Other public services Mr. Hastings had not mentioned, and the records of the Company were equally silent. What his secret services were, was a subject which, however it might leave room for conjectures, was involved in the same silence and obscurity.

From services, Mr. Burke proceeded to consider the reward proposed; and this was, that a grant of certain domains, the property of the young Rajah of Dinagepore, from which country Mr. Hastings had received the present of £40,000, should be confirmed to the son of Gunga Govind Sing, through whom that present had been conveyed. The circumstances of this case were briefly as follow: The son of Govind Sing had been appointed Registrar of the provinces of Dinagepore, &c., by virtue of which office he had the guardianship of all the temporalities of the Rajah, and the execution of the laws belonging thereto. In this situation he had obtained a fraudulent grant of a part of the Rajah's zemindary to an immense amount, contrary to law, which makes the acts of all minors void, the Rajah being at this time but nine years old, and contrary to the custom of the country, by which no Zemindar can alienate any part of his territory without the consent of the Government under which he holds. To cover this proceeding, the consent of one of the nearest relations of the Rajah was procured. Such was the grant which Mr. Hastings, at his parting, recommended to the Supreme Council for confirmation. He was no sooner gone than the other relations of the Rajah took courage, and applied to the Council to stop the grant. They proceed to inquire. The person who had consented for the Rajah was brought down to Calcutta, and declared, that he had been induced so to do by the threats of Gunga Govind Sing. Being thus pressed, Gunga Govind gave up the points of custom and law, and appealed to the arbitrary authority of the Council. In an address presented to them, he states, that their power in all such cases was unlimited; that they might act in it as they pleased; that they had frequently separated zemindaries from their lawful proprietors, and given them to others, without right, title, or purchase; he cites the example of a zemindary given in this way, by Mr. Hastings, to the son of Cantoo Baboo, his banyan, and prays that he may have the same favour shown to him that had been shown to others.

After some observations upon this address, in which he showed, by other instances, that this practice had gone to a very great length indeed, Mr. Burke gave a short account of another transaction of Mr. Hastings, exactly similar in its principles, operation, and consequences, to that of Dinagepore: the settlement of the kingdom of Bahar. Here was the same selection of the most notorious wicked men, the same present taken, the like ruin of the country, the defalcation of the revenue. The pretence was also the same,

namely, the increase of the public revenue. "But I hope and trust," said Mr. Burke, "your Lordships will consider this idea of a monstrous bribe given by men in desperate situations, to men of desperate fortunes, and of desperate characters, to be one of the grievances, instead of one of the advantages, of this system. For where a just, natural, easy system of revenue is quitted in a country; where the limits which nature, justice, and reason prescribe are broken down, there the consequence is, that the revenues are shamefully neglected, and the worst men in the country will be chosen, as Mr. Hastings has actually chosen the worst, to effectuate this work; because it is impossible for any good man, by any honest means, to provide at once for the exigencies of a severe public exaction, and a private rapacious bribe given to the chief magistrate. He must have profit both upon the revenue to be paid, and the bribe to be given. Oppression, cruel exactions, rack and ruin on the tenant, must be the consequences of that system.

"My Lords, none but wicked, bloody, and rapacious persons can be employed to execute such a task. Therefore, I charge Mr. Hastings—and we shall charge him when we come to bring it more home to him—I charge him with having destroyed the whole system of government, which he had no right to destroy, in the six provincial councils. I charge him with having delegated away that power, which the Act of Parliament had directed him to preserve unalienably in himself. I charge him with having formed an ostensible committee to be instruments and tools, at the enormous expense of £62,000 a-year. I charge him with having appointed a person Dewan, to whom those tools were to be subservient; a man, whose name, to his own knowledge, by his own general recorded official transactions, by everything that can make a man known, abhorred, and detested, was stamped with infamy; with giving him this whole power, which he had thus separated from the Council-general, and from the Provincial Councils. I charge him with taking bribes of Gunga Govind Sing. I charge him that he has not done that bribe-duty with fidelity; for there is something like a fidelity in the transactions of the very worst of men. I charge him with having robbed those people of whom he took the bribes. I charge him with having alienated the fortunes of widows. I charge him with having, without right, title, or purchase, taken away the lands of orphans, and given them to the very person under whose protection those orphans were. I charge him with giving those very zemindaries to the most wicked of persons, knowing his wickedness; with having committed to him that great country, and with having wasted the country, destroyed the landed interest, cruelly harassed the peasants, burnt their houses, and destroyed their crops. I charge him with having tortured and dishonoured their persons, and destroyed the honour of the whole female race of that country. This I charge upon him in the name of the Commons of England.

"Now, my Lords, what is it in this last moment that we want besides the cause of justice—the cause of oppressed princes, of undone women of the first rank, of desolated provinces, and of wasted kingdoms? Do you

want a criminal, my Lords? When was there so much iniquity applied to any one? No, my Lords, with respect to India, you must not look to punish in India more; for Mr. Hastings has not left substance enough in Asia to punish such another delinquent. My Lords, if a prosecutor you want, the Commons of Great Britain appear to prosecute. You have before you the Commons of Great Britain as prosecutors; and I believe, my Lords, I may venture to say, that the sun in his beneficent progress does not behold a more glorious sight, than to see those who are separated by the material bounds and barriers of nature, united by the bond of social and natural humanity; and all the Commons of England resenting as their own, the indignities and cruelties that have been offered to the people of India. My Lords, permit me to add, neither do we want a tribunal; for a greater tribunal than the present, no example of antiquity, nor anything in the world, can supply. My Lords, here we see, virtually in the mind's eye, the sacred minister of the Crown, under whose authority you sit, and whose power you exercise. In that invisible authority, which we all feel the energy and life of, we see the protecting power of his Majesty. We have also, my Lords, sitting in judgment, in this great and august assembly, the Heir Apparent to the Crown, such as the fond wishes of the people of England desire an heir apparent to be. We have here all the nobles of England, offering themselves as a pledge for the support of the rights of the Crown, and the liberties of the people. We have here, my Lords, a great hereditary peerage; we have those who have their own honour, the honour of their ancestors, and the honour of their posterity to guard; and who, while they inherit the virtues of those ancestors, will be anxious to transmit them to that posterity. My Lords, we have also here a new nobility, who have raised themselves by their integrity, their virtue, and their magnanimity, and those who, by their various talents and abilities, have been exalted to a situation, by the wisdom and bounty of their Sovereign, which they well deserve, and which may justify that favour, and secure to them the good opinion of their fellow-subjects. These will be equally careful not to sully those honours. My Lords, we have here persons highly exalted in the practice of the law, who come to sit in this tribunal, to enlighten it, and to strengthen and promote those principles which they have maintained in their respective courts below. These being ennobled for their superior knowledge, will, no doubt, see that the law is justly and impartially administered. My Lords, you have here also the lights of our holy religion, the bishops of our church. Here we behold the true image of the most uncorrupted religion, in its primitive and ancient forms; here you behold it in its primitive ordinances, purified from the superstitions that are but too apt to disgrace the best institutions in the world. You have here the representatives of that religion, which says, that God is a God of love, that of their institutions the very vital spirit is charity, and that it so much hates oppression, that when the God whom we adore appeared in human form, he did not appear in greatness of majesty, but in sympathy to the lower people, and made it a firm principle, that in that government which

he who is Master of nature, and who appeared in our humble form, has established, of the flock that feed and those that feed them, he who is called first among them is and ought to be the servant of the rest.

"My Lords, these are our securities; we rest upon them; we reckon upon them; and we commit, with confidence, the interests of India and of humanity to your hands. Therefore it is, that, ordered by the House of Commons of Great Britain, I impeach Warren Hastings of high crimes and misdemeanors.

"I impeach him in the name of the Commons of Great Britain in Parliament assembled, whose parliamentary trust he has abused.

"I impeach him in the name of the Commons of Great Britain, whose national character he has dishonoured.

"I impeach him in the name of the people of India, whose laws, rights, and liberties he has subverted.

"I impeach him in the name of the people of India, whose properties he has destroyed, whose country he has laid waste and desolate.

"I impeach him in the name of human nature itself, which he has cruelly outraged, injured, and oppressed, in both sexes. And I impeach him in the name and by the virtue of those eternal laws of justice, which ought equally to pervade every age, condition, rank, and situation in the world."

On the 30th of May, 1791, the managers of the Impeachment closed their case, and on the 2nd of June following, Mr. Hastings replied in a powerful and clever speech; and the defence was then proceeded with. The trial was however, protracted till April 23, 1795; when the accused was acquitted of all the charges preferred against him. The East India Company paid the costs of his trial, amounting to upwards of £70,000, and granted him an annuity besides. Mr. Hastings was subsequently made a member of the Privy Council; and died in August, 1818. There is no doubt that Mr. Burke was satisfied in his own mind of the guilt of Mr. Hastings, and (as is evident by his private correspondence) remained of the same opinion up to the latest period of his life.

*** The preceding Speeches of the Right Honourable Edmund Burke, are published by the kind permission of Messrs. Rivingtons.

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